

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">RECEIVED IRRC 2019 SEP 25 P 3:26</p>	
<p>(1) Agency</p> <p>Pennsylvania Public Utility Commission</p>		<p>IRRC Number:</p> <p>3244</p>	
<p>(2) Agency Number: L-2019-3010270</p> <p>Identification Number: 57-326</p>			
<p>(3) PA Code Cite: 52 Pa. Code §§ 73.1–73.7</p>			
<p>(4) Short Title: Rulemaking Regarding Depreciation Reporting and Capital Planning for Crude Oil, Gasoline, or Petroleum Products Transportation Pipelines</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Colin W. Scott, Law Bureau, 717-783-5949, colin.scott@pa.gov</p> <p>Secondary Contact: Darren Gill, Technical Utility Services, 717-787-5244, dgill@pa.gov</p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input 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 purpose of the Pennsylvania Public Utility Commission's (Commission) proposed regulation is to amend 52 Pa. Code §§ 73.1–73.9 to remove the current exemption for crude oil, gasoline, and petroleum products transportation pipeline public utilities (pipeline public utilities) and require them to comply with the reporting requirements therein. The proposed regulation requires pipeline public utilities that have gross intrastate revenues in excess of \$20 million per year to file depreciation, service life study, and capital investment plan reports, which is already required of other Commission-regulated utilities.</p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>The statutory authority for the proposed amendments to the reporting requirements of pipeline public utilities is found in the following sections of the Public Utility Code: 66 Pa. C.S. § 504 (relating to reports by public utilities); § 505 (relating to duty to furnish information to commission; cooperation in valuing property); § 506 (relating to inspection of facilities and records); § 1301 (relating to just and reasonable rate obligations); § 1501 (relating to character of service and facilities); § 501 (relating to [the Commission's] general powers); and § 102 (relating to definitions).</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 proposed regulation is not mandated by any federal or state law, court order, or federal regulation. Currently, there is no relevant case law on the subject.

The existing regulations apply to electric service, gas service, and water service public utilities, and require them to file annual depreciation reports, service life study reports, and capital investment plan reports. Prior to this amendment, pipeline public utilities were not required to file these reports. However, the amendment requires pipeline public utilities to now meet the same reporting requirements as the aforementioned utilities, bringing uniformity to the regulation.

(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 compelling public interest furthered by the proposed amendment to existing regulations is transparency in pipeline public utilities' assessment and financial planning to replace infrastructure when reaches the end of its useful life, as well as parity of reporting requirements for pipeline public utilities with utilities in other sectors. Currently under 52 Pa. Code §§ 73.1–73.9, electric, gas, and water service public utilities are required to file annual depreciation reports, a service life study report every five years, and capital investment plan every five years. The purpose for requiring these reports is to determine whether the public utility will be capable of providing safe, efficient, and adequate service currently and in the future by increasing the Commission's ability to monitor certain practices. See 38 Pa.B. 4685 (Sept. 17, 1994); *Rulemaking Re Public Utility Depreciation Practices and Capital Planning*, Docket L-00920062 (Order entered July 22, 1994). Because of the rapid growth of the crude oil, gasoline, and petroleum products industry in Pennsylvania in recent years, amending §§ 73.1–73.9 furthers the compelling public interest by allowing the Commission to evaluate regulated pipeline public utilities' assessment of the service life of their facilities and planning for those facilities' replacement. This transparency in reporting bolsters the Commission's ability to fulfill its obligation of ensuring that pipeline public utilities provide safe, efficient, and adequate service at a just and reasonable rate.

Those that may benefit from the proposed amendments are the pipeline public utilities, commercial and residential customers, and the Commission itself. Pipeline public utilities will be required to report information they have compiled that is pertinent to their operational success presently and in the future. Commercial and retail customers purchasing services/products from pipeline public utilities may benefit from additional mechanisms that ensure safe, efficient, and adequate service as described above, as well as from the increased transparency that the amendments require of pipeline public utilities. The Commission will benefit from the increased ability to monitor pipeline public utilities' business practices, while also enforcing a more uniform regulatory structure.

(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.

These proposed regulations do not contain any provisions that are expressly more stringent than federal standards. However, there are several parallel federal regulations that put affirmative reporting duties on pipelines. See 18 CFR §§ 352, 357.1–357.5.

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

By adding these reporting requirements for pipeline public utilities, Pennsylvania's regulatory scheme will be more robust and comprehensive than many other states. For example, New Jersey requires pipeline public utilities to file reports relating primarily to safety and environmental impacts, but does not require reporting of depreciation, service life, or capital investments. N.J. Admin. Code § 5:93-1.1 *et seq.* Similarly, Maryland (COMAR 20.55.03.02), New York (16 NYCRR § 258.13; § 255.1 *et seq.*), and Ohio (OAC Ann. § 4901:1-30-01; § 4901:1-16-01 *et seq.*) do not put affirmative reporting requirements on pipeline public utilities to report depreciation, service life, or capital investments. Many states require a copy of the annual reports due to the U.S. Department of Transportation. See 195 CFR §§ 195.49, 195.54.

Requiring pipeline public utilities in Pennsylvania to file the proposed reports will have no impact on their ability to compete with similarly situated companies in other states. The proposed regulatory amendments do not require individual pipelines to make expensive modifications to equipment, hire and train additional staff, or incur any marked cost. Rather, these reports will allow both the Commission and the utilities themselves to better evaluate existing assets, improving efficiency, customer service, and reliability going forward. Should pipeline utility companies find that the cost of complying with the proposed regulation is greater than expected, they can apply for a rate increase by initiating a rate case before the Commission. However, the Commission anticipates that the required information has been kept and will be readily available to the affected pipeline public utilities and that the cost of compliance will be *de minimis*. As such, Pennsylvania's competitive standing will not be changed by the proposed amendment.

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

No, the amendments only affect the reporting requirements for pipeline public utilities under the Commission's current regulatory scheme. No other regulations of the Commission or other state agencies will be affected.

(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.)

The Commission did not solicit input in advance of developing its proposed amendment to Chapter 73. However, by initiating this rulemaking, stakeholders have an opportunity to comment on the proposed changes.

(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?

Four (4) pipeline public utilities would be subject to the proposed regulation. Those companies are Laurel Pipe Line Company, LP; Sunoco Pipeline, LP; MIPC, LLC; and Interstate Energy Company, LLC.

The Regulatory Review Act, 71 P.S. § 745.3, defines “small business” by reference to the size standards established in the United States Small Business Administration’s Small Business Size Regulations under 13 CFR Ch. 1 Part 121 (relating to Small Business Size Regulations). The pipeline public utilities fall under the NAICS code 486990, with an annual receipt threshold of \$40.5 million for a small business.

Laurel Pipe Line Company is a subsidiary of Buckeye Partners, LP, a multibillion dollar corporation. (Please refer to Buckeye’s 2018 annual report for additional information at https://www.buckeye.com/LinkClick.aspx?fileticket=YJOwnj7H_oc%3d&tabid=84.) Sunoco Pipeline LP is owned by Energy Transfer LP, also a multibillion dollar corporation. (Please refer to Energy Transfer’s 2019 SEC 10-k filing at <https://ir.energytransfer.com/static-files/ba142a52-a120-41e6-bcba-bf6f38cfebe1>.) Therefore, Laurel and Sunoco do not fall under the definition of “small business.”

MIPC, LLC has never reported revenue to the Commission and is listed as not active in the Commission’s financial reporting system. The website for MIPC (<http://www.monroepipeline.com/>) is listed as under construction and only lists contact information. The associated website for Monroe Energy also appears to be defunct (<http://www.monroe-energy.com/>). While the utility has a certificate of public convenience to operate in Pennsylvania, it does not appear to be operating currently. While the Commission is unable to determine if MIPC is a small business, we do not anticipate that MIPC will need to file the required reports as it is not operational.

Interstate Energy Company, LLC is a subsidiary of Talen Energy Corporation, a multibillion dollar corporation that would not fall under the definition of small business. Additionally, Adelpia Gateway, LLC is in the process of purchasing Interstate Energy Company and has filed an application with FERC to operate the pipeline facilities in interstate transmission of natural gas. (Please see Adelpia Gateway’s application at https://elibrary-backup.ferc.gov/idmws/Doc_Family.asp?document_id=14634545.) The Commission anticipates that this utility will be under federal jurisdiction by the time this regulation is effective and, therefore, will not be affected by the proposed regulation.

Other than the pipeline public utilities listed above, no other parties will be directly affected. Consumers of pipeline products may see a positive effect in increased transparency, reliability, and general service from their pipeline public utilities.

(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.

The new entities required to comply with the proposed regulation are crude oil, gasoline or petroleum products transportation pipeline public utilities with gross intrastate revenues in excess of \$20 million per year, subject to Commission jurisdiction. Currently, there are approximately four (4) pipeline public utilities of this nature with active certificates of public convenience, identified in item 15. As discussed above, the Commission anticipates that only two of those utilities will be required to comply with the

proposed regulation, and neither are small businesses.

No other persons, groups, or entities will be required to comply with the amended regulation.

(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.

The financial, economic, and social impacts of the proposed amended regulation will be relatively small and have a mostly concentrated impact only on pipeline public utilities operating in the Commonwealth.

The overall economic impact for other potentially affected parties in the Commonwealth is expected to be negligible. Should the costs incurred by pipeline public utilities through complying with the proposed regulation be higher than the Commission anticipates, the utility may apply for a rate increase with the Commission. In that situation, should a rate increase be approved, customers of pipeline public utilities will incur a marginal increase in their service costs. The Commission anticipates such potential cost increases will be minimal and will have little impact on customers.

Pipeline public utilities may incur nominal financial costs to account for the increased reporting requirements. The annual depreciation reports are expected to be the most cost intensive of the three reports as they are filed with the most frequency. However, the Commission anticipates that the affected pipeline public utilities have this information readily accessible; thus, the cost should stay relatively low.

As for the service life report and the capital investment report, costs to prepare these reports will only be incurred every five years. The Commission anticipates the affected pipeline public utilities will incur only *de minimis* costs. However, it is not possible to estimate the potential cost with guaranteed accuracy.

The amended regulations provide uniformity in Chapter 73, giving consistent parameters for electric service, gas service, water service, or crude oil, gasoline or petroleum products transportation pipeline service which have gross intrastate revenues of \$20 million per year. By amending Chapter 73 to require pipeline public utilities to also file the applicable reports, the Commission will be better informed of the operational, fiscal, and service-related standing of pipeline public utilities. The reports will also enable the Commission to ensure that pipeline public utilities are providing safe and reasonable service. Additionally, while ancillary to the purpose of the amendment, the new regulation will compel pipeline public utilities to conduct semi-regular reviews, promoting efficiency, reliability, and continued viability.

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

It is difficult to accurately predict the cost of implementing such a program; however, the Commission anticipates that the cost for the public will be *de minimis*. The benefits of the proposed amendment include monitoring that pipeline public utilities are assessing the service life of their facilities and planning for their replacement to ensure safe, efficient and reasonable service, as well as reporting uniformity in Chapter 73. In doing so, the Commission will be better positioned to ensure that these entities will be held accountable for interactions with customers in the Commonwealth and assure their operations are in the public interest.

(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 Commission expects that the regulated community – i.e. the affected pipeline public utilities – will incur a *de minimis* cost while complying with the proposed regulation. It is expected that the affected pipeline public utilities will have the required information available, as monitoring depreciation, service life, and capital investments is customary practice for sophisticated utility companies. While the affected utilities will incur some administrative costs to comply, including and reallocation of staff time, the Commission does not anticipate any significant cost to the regulated community.

(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.

Local governments will not be affected by the proposed revision of 52 Pa. Code §§ 73.1–73.9 regulations and are not expected to incur costs or realize any savings.

(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 Commission will be affected by the proposed revisions to the regulation. The revisions will require crude oil, gasoline or petroleum products transportation pipeline service public utilities that have gross intrastate revenues in excess of \$20 million per year to file these periodic reports. However, the Commission already reviews these reports for dozens of electric, gas, and water utilities and, therefore, has processes in place for such review. The Commission anticipates that adding a few new utilities' reports should have minimal impact on staff workload.

(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.

As noted in item 20, local governments will not be affected by the proposed regulation.

State government (Commission) does not require additional legal, accounting or consulting procedures for the implementation of the proposed amendments to the regulations. The proposed amendments add “crude oil, gasoline, and petroleum products transportation pipeline public utilities” to the list of regulated public utilities that must file an annual depreciation report, quintennial service life study report, and capital investment plan reports. As noted in item 21, the Commission anticipates that these additional reports should have little impact on staff workload.

The pipeline public utilities affected by the proposed regulation will need to submit three separate reports to the Commission; one on an annual basis, and two on a quinquennial basis. By doing so, the Commission anticipates that the affected pipeline public utilities will have to reallocate staff time to compile and produce the reports. However, the Commission also anticipates that the pipeline public utilities will have the required information readily available; thus, the effect of implementing the

proposed regulation on the regulated community is expected to be insignificant.

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

No forms are required for the implementation of the regulation.

(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.**

Not applicable.

(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	None	None	None	None	None	None
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	None	None	None	None	None	None
Total Savings	None	None	None	None	None	None
COSTS:						
Regulated Community	De minimis	De minimis	De minimis	De minimis	De minimis	De minimis
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	None	None	None	None	None	None
Total Costs	De minimis	De minimis	De minimis	De minimis	De minimis	De minimis
REVENUE LOSSES:						
Regulated Community	None	None	None	None	None	None
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	None	None	None	None	None	None
Total Revenue Losses	None	None	None	None	None	None

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

There are no programs affected by the proposed 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.

As discussed in items 15 and 16, the proposed revision of Chapter 73 reporting regulations will have no effect on any small business.

(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.

It is not expected that any special provisions will be required to meet the particular needs of groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers. The Commission notes that the public has a general interest in service life studies of these pipeline public utilities and the proposed regulatory amendments would benefit the public interest by ensuring the information is provided to the Commission.

(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.

No alternative regulatory provisions were considered as the proposed rulemaking simply requires pipeline public utilities to comply with the Chapter 73 reporting requirements to which other public utilities adhere.

This is the least burdensome alternative to allow the Commission to monitor the depreciation, service life, and capital investment practices of existing pipeline public utilities. Because sophisticated pipeline public utilities likely already keep all the information required in 52 Pa. Code §§ 73.1–73.7, the burden to submit a report to the Commission is *de minimis*.

(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.

The Commission does not anticipate that the proposed regulation will have any impact on small businesses. As such, no regulatory flexibility analysis was conducted.

(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 was 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>30 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>None at this time.</u> |
| C. The expected date of delivery of the final-form regulation: | <u>1st quarter 2020</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>The subsequent report filing deadlines.</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>Not applicable</u> |

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

When finalized, the effectiveness of the amended regulations will be continually monitored by the Commission. Given that the reports are filed on an annual and quintennial basis, respectively, Commission staff will review the reports when they are submitted to the Commission. The amended Chapter 73 regulations will allow the Commission to better meet its regulatory purpose to "establish uniform and industry-wide reporting requirements designed to improve the Commission's ability to monitor on a regular basis the depreciation practices and capital planning...." 52 Pa. Code § 73.1.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED
IRRC

2019 SEP 25 P 3 26

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>BY: <u><i>Ang M. Elliott</i></u> (DEPUTY ATTORNEY GENERAL)</p> <p>SEP 17 2019 DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a 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-2019-3010270/57-326</u></p> <p>DATE OF ADOPTION: <u>June 13, 2019</u></p> <p>BY: <u><i>Rosemary Chiavetta</i></u> Rosemary Chiavetta</p> <p>TITLE <u>Secretary</u> (SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u><i>Bohdan R. Pankiw</i></u> Bohdan R. Pankiw Chief Counsel</p> <p><u>June 13, 2019</u> DATE OF APPROVAL</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
---	--	---

L-2019-3010270 / 57-326
Proposed Rulemaking
Rulemaking RE Depreciation Reporting and Capital Planning for
Crude Oil, Gasoline, or Petroleum Products Transportation Pipelines
52 Pa. Code, Chapter 73

The Pennsylvania Public Utility Commission on June 13, 2019, adopted a proposed rulemaking to require annual depreciation reporting, service life study reporting, and capital investment reporting by crude oil, gasoline, and petroleum products transportation pipeline public utilities pursuant to 52 Pa. Code Chapter 73.

The contact persons for this matter are Assistant Counsel Colin W. Scott, (717) 783-5949, colinsscott@pa.gov and Deputy Director of Technical Utility Services Darren Gill, (717) 783-5244, dgill@pa.gov.

EXECUTIVE SUMMARY
L-2019-3010270 / 57-326
PROPOSED RULEMAKING

Proposed Rulemaking Re Depreciation Reporting and Capital Planning for
Crude Oil, Gasoline, or Petroleum Products Transportation Pipelines

52 Pa. Code Chapter 73

The existing regulations at 52 Pa. Code §§ 73.1–73.9 require annual depreciation reporting, service life study reporting, and capital investment reporting by electric service, gas service, and water service public utilities. This proposed rulemaking will add crude oil, gasoline, and petroleum products transportation pipeline public utilities to the list of utilities subject to the reporting requirements of 52 Pa. Code Chapter 73.

Under Sections 501, 504–506, 1301, and 1501 of the Public Utility Code, 66 Pa. C.S. §§ 501, 504–506, 1301, and 1501, the Commission has broad authority and responsibility to ensure that the rates charged by public utilities are just and reasonable and that the service provided by public utilities to their customers and the public is safe, efficient, and adequate. The Commission may require a public utility “to file periodical reports at such times, and in such form, and of such content” as the Commission may prescribe, including information concerning the valuation of its property. Consequently, the Commission has the authority under the Public Utility Code to require crude oil, gasoline, and petroleum products transportation pipeline public utilities to comply with the reporting provisions of Chapter 73. The industry’s growth in the Commonwealth justifies including crude oil, gasoline, and petroleum products transportation pipeline public utilities in the list of entities required to comply with the depreciation, service life study, and capital planning reporting provisions of Chapter 73.

The contact persons for this rulemaking are Colin W. Scott, Assistant Counsel, Law Bureau, 717-783-5949, colin.scott@pa.gov, and Darren Gill, Deputy Director, Technical Utility Services, 717-787-5244, dgill@pa.gov.

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

Public Meeting held June 13, 2019

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
David W. Sweet, Vice Chairman
Norman J. Kennard
Andrew G. Place
John F. Coleman, Jr.

Rulemaking Regarding Depreciation
Reporting and Capital Planning for
Crude Oil, Gasoline, or Petroleum Products
Transportation Pipelines
52 Pa. Code Chapter 73

L-2019-3010270

NOTICE OF PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

The Pennsylvania Public Utility Commission (Commission) adopts this Notice of Proposed Rulemaking Order (Order) to seek comments on proposed amendments to our public utility reporting regulations at 52 Pa. Code §§ 73.1, 73.3, 73.5, and 73.7 providing for annual depreciation reporting, service life study reporting, and capital investment reporting. The existing regulations at 52 Pa. Code §§ 73.1–73.9 currently apply to electric service, gas service, and water service public utilities. The Commission proposes to require crude oil, gasoline, and petroleum products transportation pipeline public utilities to file annual depreciation reports, service life study reports, and capital investment plan reports in accordance with the provisions established in 52 Pa. Code Chapter 73.

The Public Utility Code gives the Commission broad authority and responsibility to ensure that the rates charged by public utilities are just and reasonable and that the service provided by public utilities to their customers and the public is safe, efficient, and adequate. 66 Pa. C.S. §§ 1301 and 1501. To accomplish these objectives, Section 501(b) grants the Commission the administrative authority to supervise and regulate all public utilities doing business within the Commonwealth of Pennsylvania and to make regulations necessary to exercise its powers. 66 Pa. C.S. § 501(b). Additionally, the Commission may require a public utility “to file periodical reports at such times, and in such form, and of such content” as the Commission may prescribe, including information concerning the valuation of its property. 66 Pa. C.S. §§ 504–506. The Public Utility Code, in pertinent part, defines a “public utility” as:

Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for... [t]ransporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

66 Pa. C.S. § 102. Consequently, the Commission has the authority under the Public Utility Code to require crude oil, gasoline, and petroleum products transportation pipeline public utilities to comply with the reporting provisions of Chapter 73.

In stating its purpose for promulgating the Chapter 73 regulations, the Commission determined that regular reporting of a public utility’s depreciation practices and capital planning is necessary to determine whether a public utility will be capable of providing safe, efficient, and adequate service currently and in the future. *See* 38 Pa.B. 4685 (Sept. 17, 1994); *Rulemaking Re Public Utility Depreciation Practices and Capital Planning*, Docket L-00920062 (Order entered July 22, 1994). The Commission also reasoned that it could not properly evaluate the justness and reasonableness of a public utility’s rates and rate structure without examining a company’s earnings and depreciation practices. However, the original rulemaking did not address the rationale for

excluding petroleum transportation pipeline companies from the reporting requirements. At this time, the industry's growth within the Commonwealth justifies including crude oil, gasoline, and petroleum products transportation pipeline public utilities in the list of entities required to comply with the depreciation and capital planning reporting provisions of Chapter 73. Submission of these reports ensures the Commission receives the information necessary to fulfill the duties imposed upon it by the Public Utility Code.

Accordingly, under the authority granted the Commission in Sections 501, 504–506, 1301, and 1501 of the Public Utility Code, 66 Pa. C.S. §§ 501, 504–506, 1301, and 1501; the Commonwealth Documents Law, 45 P.S. § 1204; the Regulatory Review Act, 71 P.S. §§ 745.1 *et seq.*; the Commonwealth Attorneys Act, 71 P.S. §§ 732-204; and the regulations promulgated at 1 Pa. Code § 7.4, the Commission proposes the amendments to regulations at 52 Pa. Code §§ 73.1, 73.3, 73.5, and 73.7, as set forth in Annex A;
THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulations set forth in Annex A.
2. That the Law Bureau shall submit this Order and Annex A to the Office of Attorney General for review and approval and to the Governor's Budget Office for review for fiscal impact.
3. That the Law Bureau shall submit this Order and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. That the Law Bureau shall deposit this Notice of Proposed Rulemaking Order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That interested parties may submit written comments referencing Docket No. L-2019-3010270 within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary Rosemary Chiavetta, Commonwealth Keystone Building, 400 North Street, Harrisburg, Pennsylvania 17120. Comments may also be filed electronically through the Commission's e-File System.

6. That the Secretary shall serve this Order and Annex A upon all transportation pipeline public utilities. The Order and Annex A shall be posted and made available electronically on the Commission's website.

7. The contact persons for this matter are Darren Gill in the Bureau of Technical Utility Services, 717-787-5244, dgill@pa.gov, and Colin W. Scott in the Law Bureau, 717-783-5949, colin.scott@pa.gov.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 13, 2019

ORDER ENTERED: June 13, 2019

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 73. ANNUAL DEPRECIATION REPORTS, SERVICE LIFE STUDIES AND CAPITAL INVESTMENT PLANS

§ 73.1. Purpose.

The purpose of this chapter is to establish uniform and industry-wide reporting requirements designed to improve the Commission's ability to monitor on a regular basis the depreciation practices and capital planning of electric, telephone, gas, [and] water and crude oil, gasoline or petroleum products transportation pipeline public utilities subject to Commission jurisdiction.

§ 73.3. Annual depreciation report [reports].

(a) A public utility providing electric service, gas service, [or] water service or crude oil, gasoline or petroleum products transportation pipeline service which has gross intrastate [intraState] revenues in excess of \$20 million per year, except telecommunications interexchange carriers [and gas and petroleum transportation pipeline companies], shall file an annual depreciation report with the Bureau of Technical [Fixed] Utility Services under this chapter. The first annual depreciation report of a crude oil, gasoline or petroleum products transportation pipeline public utility shall be filed with the Office of Special Assistants by June 30, 2020.

(b) The due dates for the annual depreciation report are as follows:

(1) Electric, water, [and] gas and crude oil, gasoline or petroleum products transportation pipeline public utilities reports are due on or before June 30.

(2) When a public utility is also required to file a service life study report in the same year, the public utility shall notify the Secretary in writing, on or before the date its annual depreciation report would be due, stating that both the service life study and the annual depreciation report will be filed on or before August 31.

(3) When a public utility is required to file a depreciation report in response to a Commission Order, the report shall be prepared consistent with formats and filing deadlines specified in this chapter.

(c) The public utility shall file a copy of its annual depreciation report required by this chapter with the Office of Consumer Advocate and the Office of Small Business Advocate at the same time that it files the report with the Office of Special Assistants.

§ 73.5. Service life study report.

(a) A public utility with gross intrastate revenues in excess of \$20 million per year providing electric service, gas service, [or] water service or crude oil, gasoline or petroleum products pipeline transportation service], except gas and petroleum transportation pipeline companies,] shall file a service life study report every 5 years. The first service life study report shall be filed with the Office of Special Assistants by August 31, 2000. The first service life study report of a crude oil, gasoline or petroleum products pipeline transportation public utility shall be filed with the Office of Special Assistants by August 31, 2020.

(b) The due dates for the service life study report are as follows:

(1) Electric, water, [and] gas and crude oil, gasoline or petroleum products transportation pipeline public utilities are due on or before August 31.

(2) If a public utility is required to file a service life study report by an existing Commission Order or other directive, the study period shall commence on January 1 of the year in which the last report was filed.

(3) When a public utility is required to file a service life study in response to a Commission Order, the report shall be prepared consistent with formats and filing deadlines specified in this chapter.

(4) Service life studies shall be based upon the same body of historic data used in the annual depreciation reports.

(5) The public utility shall file a copy of the service life study report required under this chapter with the Office of Consumer Advocate and the Office of Small Business Advocate at the same time that it files the report with the Office of Special Assistants.

§ 73.7. Capital investment plan report.

(a) A public utility with gross intrastate revenues in excess of \$20 million per year providing electric service, gas service, [or] water service or crude oil, gasoline or petroleum products transportation pipeline companies], except gas and petroleum transportation pipeline companies,] shall file a capital investment plan report every 5 years. The first capital investment plan report shall be filed with the Office of Special Assistants by August 31, 2000. The first capital investment plan report of a crude oil, gasoline or petroleum products pipeline transportation public utility shall be filed with the Office of Special Assistants by August 31, 2020.

(b) Thereafter, the capital investment plan report for electric, water, [and] gas and crude oil, gasoline or petroleum products transportation pipeline public utilities shall be filed with the Office of Special Assistants on or before August 31 of the year in which the report is due.

(c) The public utility shall file a copy of its capital investment plan report required under this chapter with the Office of Consumer Advocate and the Office of Small Business Advocate at the same time that it files the report with the Office of Special Assistants.



COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
400 NORTH STREET
HARRISBURG, PA 17120

GLADYS BROWN DUTRIEUILLE
CHAIRMAN

September 25, 2019

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

**Re: L-2019-3010270 / 57-326
Proposed Rulemaking Re Depreciation Reporting
and Capital Planning for Crude Oil, Gasoline,
or Petroleum Products Transportation Pipelines
52 Pa. Code, Chapter 73**

Dear Chairman Bedwick:

Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Under Section 745.5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1—745.15), the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to add crude oil, gasoline, and petroleum products transportation pipeline public utilities to the list of utilities subject to the reporting requirements of 52 Pa. Code, Chapter 73, which include annual depreciation reporting, service life study reporting, and capital investment reporting. The contact persons are Colin W. Scott in the Law Bureau, 717-783-5949 and Darren Gill in Technical Utility Services, 717-787-5244.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Sincerely,

Gladys Brown Dutrieuille
Chairman

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Brad Roae
The Honorable Robert F. Matzie
June Perry, Legislative Affairs Director
Renardo L. Hicks, Chief Counsel
Robert F. Young, Deputy Chief Counsel
Colin W. Scott, Assistant Counsel
Laura Griffin, Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT**

ID Number: L-2019-3010270/57-326

Subject: Proposed Rulemaking Re Depreciation Reporting and
Capital Planning for Crude Oil, Gasoline, or
Petroleum Products Transportation Pipelines
52 Pa. Code, Chapter 73

Agency: Pennsylvania Public Utility Commission

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - With Revisions Without Revisions

**RECEIVED
IRRC
2019 SEP 25 P 3:26**

FILING OF REGULATION

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
		HOUSE COMMITTEE ON CONSUMER AFFAIRS
<u>9/25/19</u>	<u><i>Heather Rodgers</i></u>	Majority Chair, B. Roae
<u>9/25/19</u>	<u><i>Bob Rose</i></u>	Minority Chair, R. Matzie
		SENATE COMMITTEE ON CONSUMER PROTECTION AND PROFESSIONAL LICENSURE
<u>9/25/19</u>	<u><i>Tom Blauch</i></u>	Majority Chair, R. Tomlinson
<u>9/25/19</u>	<u><i>[Signature]</i></u>	Minority Chair, L. Boscola
<u>9/25/19</u>	<u><i>[Signature]</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
<u>9/25/19</u>	<u><i>J Fisher</i></u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

