



April 11, 2024

Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Re: **Final Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards at 52 Pa, Code Chapter 59 (PUC #57-335 & IRRC #3330). Submitted via [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)**

Dear Honorable Board of Commissioners:

The Marcellus Shale Coalition (MSC), a regional trade association with a national membership, appreciates the opportunity to submit comments regarding the above-referenced proposed rulemaking. The MSC was formed in 2008 and is currently comprised of approximately 140 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, gathering, processing, transmission and utilization in the country, as well as the supply chain companies, contractors and professional service firms who work with the industry.

The MSC appreciates the opportunity to share with the Independent Regulatory Review Commission (IRRC or Commission) several observations regarding the above-referenced final rulemaking.

## **Introduction**

To be clear, the MSC and its member companies are fully committed to ensuring that all pipelines carrying hazardous liquids in this Commonwealth are constructed and operated in full compliance with all applicable statutes and regulations, and in a manner that prioritizes public and employee safety.

The MSC wishes to express its appreciation to the Public Utility Commission (PA PUC) for its commitment to pipeline safety as well, and for its diligent review of the public comments received during consideration of this rulemaking. Several significant issues raised in our prior comments have indeed been addressed in the final rulemaking. We note that final promulgation of this rulemaking also occurred at a time that the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA) was finalizing a suite of new pipeline standards that has also had a significant impact on Pennsylvania.

## **Remaining Concerns**

While the final rulemaking before the Commission is improved, several specific issues remain that we wish to bring to your attention. Several of these remaining concerns also reflect issues raised by IRRRC in its own comments on this rulemaking during the comment period.

### Land Agents

The final rulemaking requires that any negotiating easements for a hazardous liquid public utility must hold at least one professional license from a list provided for in the regulation (§59.142).

Respectfully, this requirement is far afield from the stated goal of pipeline safety, and further we do not believe that the PA PUC has the statutory authority to impose this requirement. Such requirements are to be done under the various professional licensing statutes of the Commonwealth and subject to the respective professional licensure boards housed within the Pennsylvania Department of State.

If this standard were to remain, it would create an absurd result whereby a land agent negotiating a pipeline easement would be required to hold a professional license – but only if that pipeline was transporting hazardous liquids and was subject to PA PUC jurisdiction as a public utility. This scenario creates confusion, provides no tangible connection to enhanced pipeline safety, and demonstrates no practical nexus between the qualifications of these various professional licenses and the work of a professional land agent. The practical result of maintaining this requirement would be to disqualify a host of experienced and professional land agents currently employed in the Commonwealth from engaging in future work.

If it is appropriate to consider professional criteria for the licensure of land agents, this matter should be undertaken in a holistic manner, with appropriate statutory authority, and not in a manner that targets one small subset of professional land agents.

We urge this requirement to be deleted from the final rulemaking.

### Ten Day Notification Requirement

Under the final rulemaking (§59.135(b)(2)), an operator of a hazardous liquids pipeline subject to PA PUC jurisdiction must provide notice 10 days prior to commencement of unearthing suspected leaks, cracks and other potentially serious pipeline integrity issues. No exception to this 10-day notification is provided for in the final regulation. As written, an operator would need to wait 10 days after notice to the PA PUC to begin work on addressing a suspected leak or other integrity issue.



This rulemaking is inconsistent with applicable federal PHMSA regulations, which require an operator to undertake immediate action to address such situations. The PA PUC appears to understand the need for allowing immediate action by a pipeline operator, as it references such emergency scenarios in its accompanying written order. However, such an order is no substitute for the underlying regulation, which operators are required to follow.

To remedy this situation appropriately, the final regulation ought to be amended to provide for and recognize emergency situations that allow unearthing activity to commence prior to the passage of the 10-day notification.

#### Emergency Flow Restricting Device and Valve Placement

It appears that the requirements to evaluate and install remote-controlled Emergency Flow Restricting Devices (EFRDs) extends to existing pipelines, rather than limiting this requirement to new pipelines constructed after this final rulemaking becomes effective. It is important to note that this requirement (§59.140(h)) is found within the Operations and Maintenance section of the final rulemaking, rather than the Construction section. As such, it is reasonable to infer that it is intended to be a retroactive rulemaking.

As drafted, it appears that existing pipelines may be required to undertake extensive reconstruction of existing pipelines by unearthing them and installing remote-controlled EFRDs. The MSC urges the Commission to carefully examine this language, its implications, and impact on existing pipelines. Further, the MSC urges the Commission to review this and other valve-related requirements in the context of recently promulgated federal PHMSA standards to ensure that this rulemaking is consistent with the federal requirements.

#### **Conclusion**

On behalf of the MSC and its members, thank you for your review and consideration of these comments. Should you have any questions or desire clarification, please do not hesitate to contact me.

Sincerely,



David E. Callahan  
President