

**BEFORE THE
INDEPENDENT REGULATORY REVIEW COMMISSION**

Pennsylvania Public Utility Commission :
Regulation #3330 – Final Regulation : IRRC No. 3330
Implementing Hazardous Liquid Public :
Utility Safety Standards at 52 Pa. Code :
Chapter 59 :

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Independent Regulatory
Review Commission

06/20/24

**COMMENTS OF
LAUREL PIPE LINE COMPANY, L.P.**

I. INTRODUCTION

Laurel Pipe Line Company, L.P. (“Laurel”) files these Comments with the Independent Regulatory Review Commission (“IRRC”) to highlight specific legal and technical issues with the Pennsylvania Public Utility Commission’s (“PUC”) Revised Final Form Rulemaking Order (“RFFRO”) and Revised Annex of regulations. Laurel submits that the PUC should resolve these issues as it continues with the rulemaking process.

II. COMMENTS ON RFFRO AND REVISED ANNEX OF REGULATIONS

In the following sections, Laurel provides its comments on proposals contained in the RFFRO and the Revised Annex. Laurel has organized its comments to address: (1) the continued inclusion of references to “conversions of service” in Section 59.137; and (2) the ground patrol requirements in Section 59.140(g)

A. SECTION 59.137 – CONTINUED INCLUSION OF CONSTRUCTION REQUIREMENTS FOR PIPELINE CONVERSIONS IS INCONSISTENT AND INAPPROPRIATE

The PUC proposed the following language as a part of 52 Pa. Code § 59.137(a) in the RFFRO:

(a) *Scope.* This section establishes requirements for a hazardous liquid public utility constructing a new pipeline, or converting, relocating or replacing an existing pipeline.

RFFRO, Revised Annex A at 12 (bold and underline in original).

Similarly, the PUC has proposed the following language as a part of 52 Pa. Code § 59.137(b) in the RFFRO:

In addition to the requirements of 49 CFR 195.210 (relating to pipeline location), a hazardous liquid public utility may not construct a new pipeline, convert, or relocate an existing pipeline in a location under any building or dwelling including private dwellings, industrial buildings, and buildings intended for human congregation. This requirement does not apply to the repair or replacement of existing pipelines.

RFFRO, Revised Annex A at 12 (bold and underline in original).

The PUC recognized throughout its rulemaking that PHMSA regulations expressly allow and provide the process for conversions of service. More specifically, in the RFFRO the PUC acknowledged that prohibiting the use of the conversion of service set forth in Pipeline and Hazardous Materials Safety Administration's ("PHMSA") regulations would conflict with those regulations:

With respect to the Associations' comment that retroactively requiring the proposed requirements for HDD, TT and direct buried methodologies to convert pipelines conflicts with PHMSA's regulations (49 CFR 195.5) by banning operators of existing pipelines from using the conversion to service process. The Associations recommend eliminating reference to "converting" pipelines. Operators using the "conversion" process would only be impacted if their system needs upgrading (i.e., cut outs, replacement, etc.). **We agree with the Associations that "conversion" should not be in the HDD and TT section of these proposed regulations and have amended the final-form regulation A to remove the reference to converting.**

RFFRO at 195-96 (emphasis added). Having acknowledged this conflict, the PUC removed "conversion" from the list of processes subject to the HDD, TT, and direct buried methodologies

regulation in Section 59.138. RFFRO, Revised Annex at 13. Moreover, the PUC eliminated definitions for “conversion” and “conversion to service.” because these “terms are not used in this final form rulemaking as discussed further below.” RFFRO at 80. Finally, the RFFRO went on to remove a proposed regulation section that would have made PHMSA guidance on pipeline conversions mandatory. RFFRO at 98.

The RFFRO illustrates that the PUC did not intend to enact regulations regarding conversion procedures or requirements. However, the terms “conversion” and “convert” still appear in Section 59.137. Attempting to place new construction standards on pipeline conversions per Section 59.137 is inappropriate; just as it was inappropriate to place such standards on pipeline conversions in Section 59.138. The PUC’s regulation as proposed conflicts with the conversion process laid out in 49 CFR § 195.5. The words “conversion” and/or “convert” should not appear in, and be removed from Section 59.137, and the requirements set forth in Section 59.137 should not apply to conversions of service.

B. SECTION 59.140 – REQUIRING SPECIFIC GROUND PATROLS CONDUCTED MULTIPLE TIMES PER YEAR IS UNREASONBLY BURDENSOME

The PUC proposed the following language as a part of 52 Pa. Code § 59.140 in the RFFRO:

(g) Inspection of pipeline rights-of-way. In addition to the requirements of 49 CFR 195.412 (relating to inspection of rights-of-way and crossings under navigable waters), a hazardous liquid public utility shall inspect pipeline facilities in non-HCAs using ground patrol at least twice a year, not to exceed every 6 1/2 months, and in HCAs using ground patrol at least four times a year, not to exceed every 3 1/2 months. The ground patrol shall include inspection along the right-of-way to ascertain surface conditions on or adjacent to the right-of-way. The ground patrol path must not exceed lateral distance of 25 feet from the center of the right-of-way.

RFFRO, Revised Annex A at 21.

Laurel submits that requiring ground patrols to be conducted multiple times a year is unreasonably burdensome. Importantly, PHMSA's regulations already require pipeline operators to observe the pipeline 26 times per calendar year via an array of methods. 49 C.F.R. § 195.412. It has not been demonstrated that ground patrols will have benefits sufficient to justify the increased costs and burdens imposed by the regulation. The PUC did not seek cost information regarding this portion of the regulation, nor did it seek information regarding the benefits of specifically conducting ground patrols multiple times a year in addition to the observation requirements already imposed by PHMSA.

III. CONCLUSION

Laurel appreciates the opportunity to provide comments to the IRRC in this rulemaking proceeding. As described herein, the RFFRO and Revised Annex of regulations contain deficiencies. Laurel requests that the PUC consider these comments as it continues the rulemaking process.

Respectfully submitted,



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