

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 15-G-0244 - Proceeding on Motion of the Commission to
Develop Implementation Protocols for Complying
with Inspection Requirements Pertaining to Gas
Service Lines Inside Buildings.

ORDER ESTABLISHING STATEWIDE INSPECTION
SCHEDULES AND PROCEDURAL REQUIREMENTS

Issued and Effective: April 20, 2017

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 20, 2017

COMMISSIONERS PRESENT:

Gregg C. Sayre, Interim Chairman
Diane X. Burman

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BY THE COMMISSION:

INTRODUCTION

On April 2, 2015, the Commission adopted a new definition of gas service line, which expanded the Commission's jurisdiction and, therefore, the breadth of gas safety inspections that all local gas distribution companies (LDCs) must perform on inside gas services.¹ Because of the new definition, two primary inspection requirements have been added to LDCs' Operation and Maintenance (O&M) programs: leakage

¹ See Case 14-G-0357 - In the Matter of Revising 16 NYCRR Gas Safety Regulations for Consistent Application of More Stringent Federal Gas Safety Standards in 49 CFR, Memorandum and Resolution Adopting Gas Safety Regulation Amendments (issued April 2, 2015). Until adoption of the new definition, Commission jurisdiction extended only as far as the first gas fitting inside the building wall regardless of the location of the meter.

surveys and atmospheric corrosion inspections starting from a building's outside wall up to the outlet of the gas meter (together, new inspections).²

While the new service line inspection requirements apply across the state to all LDCs, concern has grown in New York City, where recent investigations have revealed that gas service lines and gas meters have been installed over many years, some in unique ways and of unknown integrity. Due to the incidents described below, it has become apparent that comprehensive baseline inspections of gas services should begin immediately (if they have not already begun) and they must be comprehensive. Therefore, as discussed in more detail below, this Order requires that LDCs complete baseline leakage surveys and atmospheric corrosion inspections in residential districts within three years of the date of this Order. The three-year deadline includes leakage surveys and atmospheric corrosion inspections of meter sets inside apartments unless, within 90 days of the date of this Order, the LDCs provide an engineering analysis and risk assessment justifying a longer period to complete those baseline inspections for all or part of their service territories.³ Gas safety rules require that leakage surveys in business districts be completed each calendar year

² The new definition of gas service is found in 16 NYCRR 255.3(43), "Service line means the piping, including associated metering and pressure reducing appurtenances, that transports gas below grade from a main or transmission line to the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream where a meter is located within the building; if a meter is located outside the building, the service line will be deemed to terminate at the outside of the building foundation wall."

³ Through-wall pipes from the outside of a building and building basements must be inspected pursuant to the new regulations and will not be considered for any longer period. A justification

not to exceed every 15 months; therefore, LDCs have until 15 months from the date of this Order to perform baseline leakage surveys in business districts.⁴

Foremost, in addition to the 15-month and three year timeframes, baseline leakage surveys and atmospheric corrosion inspections (1) must be completed by LDCs and their operator qualified sub-contractors or sufficiently operator qualified Licensed Master Plumbers (see below) who participate in an approved drug and alcohol testing program;⁵ and (2) must include every gas service line up to the outlet of the meter in each LDC's service territory.

BACKGROUND

In 2014, an expedited hard rulemaking was commenced, in which the Commission ultimately adopted a definition of service line that mirrored the federal definition. As a result

may be offered for more time to inspect meter sets actually installed inside NYC apartments.

⁴ As described in detail in the body of this Order, longer intervals than what gas safety rules require for follow-up inspections will be considered on an individual LDC basis at a later date once the results of the baseline inspections are available for review. Absent subsequent filings by individual LDCs containing justification for longer future intervals, and approval of these intervals by the Commission, the inspection intervals for future inspections will default to the intervals established in 16 NYCRR §§255.481(a) and 723(b).

⁵ Commission regulations in 16 NYCRR Parts 255 and 262 include specific training and testing components that must be completed before LDC operators may consider any workers performing work on jurisdictional piping "qualified," hence the term "operator qualified." It is incumbent upon and the responsibility of LDCs to ensure that the training and testing of LMPs and others performing gas service inspections meet gas safety operator qualification requirements to perform the covered tasks they complete. See 16 NYCRR §255.3 [definition of covered task].

of the new definition, Commission gas safety jurisdiction now unequivocally extends from the gas main to the outlet of every gas meter in the State, no matter its location. When a meter is set outside a building, jurisdiction extends to the first fitting inside the premises.

While completion of leakage surveys and corrosion inspections on inside piping up to the outlet of the meter (when the meter is located inside) will be an additional inspection responsibility for most LDCs, the more challenging implementation issues, such as access to each meter, exist in New York City (NYC).⁶ In part this is because meters in most other areas of the state are being moved or have been installed outside.⁷ In urban areas, high-rise buildings often include gas meters in individual apartments and on multiple upper level floors; therefore, inspecting every gas meter in NYC poses unique challenges. Therefore, LDCs that operate in NYC - Consolidated Edison Company of New York, Inc. (Con Edison) and National Grid New York, Inc. (KeySpan New York (KEDNY) and KeySpan Long Island (KEDLI) (NYC LDCs) - will need assistance in completing the inspections.

⁶ In Case 12-G-0202 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Gas Service, Niagara Mohawk was provided rate treatment to perform leakage surveys and atmospheric corrosion inspections of inside gas services. See Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal (issued March 15, 2013).

⁷ NFG reports that the vast majority of its gas meters are located outside. NFG at 6. NYSEG/RG&E state they routinely move meters outside and have been doing so for some time (NYSEG/RG&E at 5) but both argue that a requirement that LDCs move meters outside should not be adopted. We do not adopt a requirement in this Order that meters must be moved outside. However, LDCs are reminded that to comply with Commission gas safety regulations, meters must be placed in an accessible location. See 16 NYCRR §255.353(a).

For this reason, Licensed Master Plumbers (LMPs) were invited to participate in the new service line definition's hard rulemaking. Once the new gas service line definition became law, plumber organizations were invited also to participate in this proceeding. Through the cooperative sharing of information between National Grid (specifically, KEDNY and KEDLI), Con Edison, and plumber organizations, it has become apparent that, given the extensive training LMPs receive, LMPs readily could be operator qualified to the extent necessary to perform leakage surveys and corrosion inspections that will meet LDCs' leakage survey and corrosion inspection obligations and to identify and respond appropriately when abnormal operating conditions are found during such inspections.

New York City Legislation

To further support this initiative, the NYC LDCs actively participated in advocating what has become recently-enacted New York City legislation requiring building owners to inspect inside gas services (NYC Law). The NYC Law authorizes LMPs "with appropriate qualifications" and plumbers acting under the "direct and continuing supervision of" LMPs to complete not only the PSC's required gas service inspections but inspections into living spaces. Specifically, it assigns to building owners the responsibility to document inspections of inside gas piping from the "point of entry of gas piping . . . up to individual tenant spaces."⁸ Through the cooperative initiatives between plumber organizations and the NYC LDCs, therefore, LMPs will be able to complete inspections required of the NYC LDCs while also enforcing the NYC Law.

The NYC Law, however, differs from Commission requirements in various ways. First, the NYC law does not

⁸ New York City Administrative Code §§28-318.3.1.

become effective until January 1, 2019. Second, it requires building owners to complete inside gas piping inspections every five years, beginning five years from the date the law becomes effective (i.e., 2024). As such, NYC building owners, in effect, have seven years from the date of this Order to complete their first inspection. Third, new buildings need not be inspected for ten years after they receive a certificate of occupancy.⁹

Recent Incidents in NYC

In 2015, unlawfully installed inside gas piping at 121 2nd Avenue in NYC led to a gas explosion in which two people died and 22 people were injured. Reports from the Manhattan District Attorney's Office describe that a plumber hired by the landlord had installed unauthorized gas piping running from an unused gas meter at 119 2nd Avenue to deliver gas to apartments at 121 2nd Avenue. While Con Edison had inspected and tagged the piping as inadequate, the landlord ignored Con Edison's warning tag and allowed contractors to place the line into service, which ultimately released gas that ignited, causing the explosion.

More recently, the District Attorney in Brooklyn, New York, arrested 36 individuals after an extensive investigation confirmed the existence of multiple illicit and unlawfully installed gas services. A group of National Grid/Brooklyn Union Gas Company employees, ex-employees, and landlords had allegedly established a long-running scheme in which landlords paid to install unauthorized gas meters and services in Brooklyn.

LEGAL AUTHORITY

Public Service Law 65(1) assigns to the Public Service Commission authority over all gas corporations and requires all gas corporations to "provide such [gas] service,

⁹ New York City Administrative Code §§28-318.1 and 28-318.2.

instrumentalities, and facilities as shall be safe and adequate and in all respects just and reasonable.” In 49 U.S.C. 60101 et seq., Congress asserted jurisdiction over intrastate gas facilities in addition to interstate facilities. States like New York State that are certified by the Pipeline and Hazardous Materials Safety Administration (PHMSA) to act in its stead pursuant to the requirements of 49 USC §§60105 and 60106 must comply with PHMSA requirements for gas safety inspections, among other obligations.

In 2009, PHMSA mandated that gas companies develop Distribution Integrity Management Programs (DIMP), which required gas companies to “develop and implement integrity management (IM) programs” based upon . . . risk-based planning.¹⁰ PHMSA’s adoption of the DIMP rule was meant to enhance safety and identify and reduce pipeline integrity problems by requiring individual distribution system risk assessments through gas company evaluations of their pipeline systems. Based on those risk assessments, gas companies are expected to make “risk-based adjustment[s] of [the] prescribed intervals for leak detection surveys and other fixed-interval requirements.”¹¹ PHMSA reached this conclusion upon the belief that threats to safety must be assessed based upon actual pipeline threats; therefore, gas companies are expected to “identify and understand” such threats so that resources may be directed to other purposes where a “low level of risk makes a longer interval acceptable.” PHMSA’s approach recognizes that applying “resources to other safety tasks to address higher risks can result in an overall improvement in safety.”¹²

¹⁰ See Federal Register, December 4, 2009 (Volume 74, Number 232) Final Rule at 1.

¹¹ Id.

¹² Id. at 3.

In adopting the DIMP rule, PHMSA specifically assigned to each State the discretion to implement safety inspection intervals in accordance with state certifications authorized in 49 USC §60106. In its Final DIMP rule, PHMSA stated that States also need flexibility when implementing state-required interval provisions.¹³ Based upon the DIMP standard, therefore, States may consider whether safety can be improved if, for instance, resources are assigned to gas pipe replacement rather than following strictly stated intervals for corrosion inspections if data collected shows corrosion to be a low level threat. Similarly, PHMSA reiterated that State authorities may approve alternate intervals for LDC leakage surveys and corrosion inspections than those specifically spelled out in PHMSA's regulations, based upon "engineering analysis and risk assessments" that support a finding that the "adjusted interval will provide an equal or greater overall level of safety."¹⁴ PHMSA acknowledged that the intervals required in federal rule 49 CFR Part 192 were created based upon judgment and experience and not on engineering analysis; therefore, PHMSA stated, LDC data may show that a higher number of inspections in some parts of gas systems will have "little effect on reducing risk."¹⁵

This Order, therefore, adopts inspection requirements pursuant to the Commission's State authority over safe operation of gas companies and the designated authority from PHMSA to develop inspection requirements.

STRAW PROPOSAL

A Staff Straw Proposal recommending and seeking comments on certain requirements that might be included in implementing the new inspections was filed with the Secretary on

¹³ Id. at Comment Topic 5 (b).

¹⁴ PHMSA Enforcement Guidance §192.1013.

¹⁵ Id.

March 1, 2016 and published for comment in the State Register on March 16, 2016. Among other things, it discussed the work that must be completed to establish the date by which all baseline inspections must be completed and to establish intervals for future inspections.¹⁶ The Straw Proposal proposed tolling the deadline for completion of baseline leakage surveys and corrosion inspections but proposed the LDCs propose a plan for completing such inspections by September 2017.¹⁷

The Straw Proposal also sought comments on the methods LDCs should follow to complete such inspections (e.g., "exceptions based reporting" of completed inspections and use of Combustible Gas Indicators to perform leakage surveys). It allowed time for LDCs to complete a study proposed by the Gas Technology Institute (GTI Study), which was expected to provide data supporting randomized baseline inspections and to provide an engineering analysis and risk assessment to assist in establishing intervals for future inspections on an individual LDC basis. Details of each issue raised in the Straw Proposal and that are resolved in this Order, are described within each subject-matter heading below.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on March 16, 2016 [SAPA No. 15-G-0244SP1]. The time for submission of comments pursuant to the Notice expired on May 2, 2016. The Straw Proposal Regarding Inspection Protocols for Gas Service Lines was also the subject of a

¹⁷ The intervals for performing leakage surveys are enunciated in 16 NYCRR 255.723(b)(1) [business districts] and 255.723(b)(2) [outside of business districts] and atmospheric corrosion inspections at 16 NYCRR §255.481.

March 3, 2016 Secretary's Notice Seeking Comments, which were due May 23, 2016.

Comments were submitted by the Northeast Gas Association (NGA), Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (Con Edison/ORU), Central Hudson Gas and Electric Corporation (Central Hudson), National Fuel Gas Distribution Corporation (NFG), and The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid and Niagara Mohawk Power Corporation d/b/a (National Grid) (collectively, the LDCs), the Independent Master Plumbers of Westchester (IMPW), the Master Plumbers Council of the City of New York, Inc. (MPC), and the Plumbing Foundation City of New York (Plumbing Foundation) (together, plumber organizations) submitted comments.

On January 11, 2017, NGA submitted to the Department a one page "Survey Progress Report" in reference to the GTI Study. The report documents the number of random and opportunistic leakage surveys and corrosion inspections each LDC had performed as of the date of the submission. No analysis of any engineering findings is included.

Con Edison and National Grid filed supplemental comments On February 6, 2017, which are accepted into this proceeding outside the SAPA comment period because they explain the impact of the NYC Law, which became effective after the Straw Proposal was issued and the SAPA comment period ended. The NYC Law will assist Con Edison and National Grid (KEDNY) in their ability to complete baseline and future gas service line inspections, particularly over the long term. These supplemental comments are addressed in the body of this Order as well.

DISCUSSION

Completion of Baseline Inspections

In the Straw Proposal, Staff recommended temporarily suspending the deadline by which all baseline inspections would need to be completed. Staff intended to allow for the use of the pending GTI Study to see if it justified random baseline inspections of inside gas services, a longer period to complete baseline inspections, as well as future inspections at alternate intervals than those required in gas safety rules. Given that the GTI Study results were expected to form the basis for randomized baseline inspections, in the Straw Proposal Staff proposed that LDCs have until September 2017 to submit individual inspection procedures applying the findings revealed by the GTI Study.

Comments

Every LDC and NGA supported tolling the date by which baseline leakage surveys and corrosion inspections would need to be completed. The LDCs and NGA also supported the Commission's directing the commencement, inspection intervals, and completion of inspections through the State's authority assigned under the DIMP rule.¹⁸ The LDCs and NGA supported relying on the GTI Study to justify random inspections to meet the baseline inspection requirements. They believe the GTI Study will also show that the timing of the intervals within which future inspections occur can be longer than what is required in the gas safety

¹⁸ Con Edison/ORU at 3; National Grid at 5; Central Hudson at 3; NYSEG/RG&E at 2; and NGA at 2 (NFG deferred to NGA).

rules.¹⁹ NYSEG/RG&E sought Commission action approving baseline plans within 45 days of LDC submissions of baseline inspection procedures, which Staff proposed LDCs submit in September, 2017.²⁰ National Grid, as of the date of its May 23, 2016 comments, had completed 71,000 opportunistic inspections statewide.²¹ As of the time it filed comments, Central Hudson had completed its random inspections and had moved onto opportunistic inspections it would make part of the GTI Study.²² Central Hudson states it will use its own opportunistic data and "may" use the data gathered in the GTI Study to "establish the correct frequency" of re-inspections.²³ NGA supports the submission of baseline inspection proposals by September 2017 and seeks a "reasonable timeframe" for the completion of baseline inspections based upon what NGA calls GTI's "DIMP-based risk assessment study."²⁴

Con Edison plans to complete its baseline inspections during the Company's installation of meters in the Advanced Metering Infrastructure Implementation Project (AMI) between 2017-2022. ORU proposed to begin its own baseline inspections

¹⁹ Con Edison/ORU at 3. Con Edison seeks to include in its baseline inspections those completed "within a reasonable amount of time prior to the [GTI] Study." National Grid at 5; Central Hudson at 3-4; NYSEG/RG&E at 2, 4; and NGA at 2 (to whom NFG deferred on this issue, NFG at 2).

²⁰ NYSEG/RG&E at 2.

²¹ National Grid at 5.

²² Central Hudson at 4. Central Hudson aptly defines opportunistic inspections as "the examination (including both visual and gas readings being taken) of exposed interior service piping when responding to a gas odor that provides the opportunity (with no impact to the customer) to conduct such inspections."

²³ Central Hudson at 4.

²⁴ NGA at 2.

in 2016, augmented by ORU's AMI installations through 2021.²⁵ NYSEG/RG&E support commencement of the baseline inspections by September 2017.²⁶

The January 2017 NGA submission of the GTI Study update states that, in total, 15,505 Random and 84,460 Opportunistic inspections across all LDCs had occurred. NGA states that the final report showing the results of the GTI Study will be completed by July 31, 2017 "for the sponsors' review and program evaluation."

Discussion

While it was anticipated that the GTI Study might form a basis to authorize randomized baseline inspections and, in the Straw Proposal, Staff proposed that LDCs have until September 2017 to submit individual inspection procedures applying the findings revealed by the GTI Study for such intervals, recent events warrant the requirement that LDCs commence baseline leakage surveys and corrosion inspections immediately (if they have not already done so) and comprehensively.

Recent NYC incidents and investigations highlight the imperative to act now and to assess, on a granular level, the safety of natural gas installations and facilities up to and including the outlet of each gas meter, particularly in New York City. Without thorough inspections, there is no way to ascertain how many gas pipe or meter installations have been installed in an unsafe or unlawful manner. While it is impossible to state definitively that the service issues involved in these recent incidents would have been discovered during the baseline inspections, completing inspections on each

²⁵ Con Edison/ORU at 4.

²⁶ NYSEG/RG&E at 4.

gas service line and meter presents the best opportunity to discover leaks and other integrity issues in need of repair.

Therefore, all LDCs must complete leakage surveys and corrosion inspections of all non-business district gas service lines and meters in their service territories within three years and leakage surveys in business districts within 15 months of the date of this Order. The three-year deadline applies to meter sets inside apartments unless, within 90 days of the date of this Order, the LDCs submit an engineering analysis and risk assessment justifying a longer period to complete those baseline inspections. Con Edison's request that baseline inspections already performed be counted towards this requirement, including all baseline inspections performed since the commencement of this proceeding, is granted.

Longer intervals than what gas safety rules require for follow-up inspections will be considered on an individual LDC basis at a later date once the results of the baseline inspections are available for review. If they seek to do so, LDCs may petition the Commission relying on the results of baseline inspections together with both the study being performed by GTI and company-specific risk assessment(s) to justify a basis for intervals for future inspections.²⁷ Such petitions shall include submission of engineering analyses and risk-based assessments applicable to individual gas utilities seeking changes to future intervals. Absent subsequent filings by individual LDCs containing justification for longer future intervals, and approval of these intervals by the Commission,

²⁷ Consistent with 16 NYCRR §255.1013, an operator may propose to reduce the frequency of periodic inspections and tests required in this part on the basis of the engineering analysis and risk assessment required by sections 255.1003 through 255.1015.

the inspection intervals for future inspections will default to the intervals established in 16 NYCRR §§255.481(a) and 723(b).

Longer inspection intervals for follow-up inspections may be adopted if the Commission finds that the LDC-submitted risk assessments show, on balance, that a greater or equal level of overall system safety will be provided with the proposed intervals.²⁸ Combined with the results of the baseline inspections, the GTI Study's findings will be considered on an LDC-by-LDC basis in petitions seeking to establish alternative schedules for follow-up leakage survey and corrosion inspections of gas service lines.²⁹

The Use of Combustible Gas Indicators (CGIs)

In the Straw Proposal, Staff observed that the use of CGIs appeared to be a reasonable alternative to what Commission rules require for gas leakage survey equipment. Pursuant to Commission gas safety rules, only "approved" devices may be used perform leakage surveys; therefore, Staff sought a more complete record to justify approval of the use of CGIs to inspect inside gas service lines.³⁰

²⁸ See 48 CFR §192.1013(b).

²⁹ A discussion and decision on the use of permanently installed methane detectors as a means to allow longer inspection intervals or to use as a replacement for inside leakage surveys will be made in an order adopting intervals for follow-up inspections. This will allow ongoing methane detectors studies to advance before a final decision is made on the extent of their use in leakage surveys.

³⁰ Commission rules state, "(24) Leakage survey means a systematic survey made for the purpose of locating leaks in a gas piping system using an approved instrument which continuously analyzes atmospheric samples near ground level and is capable of detecting the presence of gas in parts per million in air." Emphasis added.

Comments

All of the commenters uniformly support the use of CGIs to complete inside leakage inspections. NGA provided, and the LDCs referenced, a GTI white paper to support the use of CGIs for inside leakage inspections. They explain that while Commission rules define performance criteria for gas monitors to detect gas accurately, those criteria were intended to apply to outdoor detection. Outside gas leak detectors were developed to account for such variables as "wind, gas dispersion and dilution," whereas inside leaks can be detected with CGIs that use a "percentage calibrations scale."³¹ As NFG describes it, "Inside leak surveys encounter an entirely different set of conditions and therefore require equipment that is compatible with those conditions and that has a proven track record in finding inside leaks."³² As the "primary gas safety tool" used throughout the industry, Con Edison/ORU and National Grid state that CGIs "conform to federal requirements to conduct periodic leak surveys of inside piping."³³ Some LDCs sought a rule change to specifically allow CGIs to be used for inside leakage surveys but believe, in the short term, that the Commission should grant a waiver to LDCs to allow them to use CGIs.³⁴ NGA states that New York State "should broaden its leak survey requirements to parallel current federal code in this regard and allow the use of technically substantiated leak survey equipment at appropriate detection thresholds for use in these indoor environments."³⁵ NGA believes it would require a waiver of state

³¹ Con Edison/ORU at 7; NGA at 4-5; Central Hudson 6-7; NFG at 2-5.

³² NFG at 5.

³³ Con Edison/ORU at 8; National Grid at 9; NYSEG/RG&E at 3.

³⁴ NFG at 4-5.

³⁵ NGA at 4; see National Grid at 9.

regulations to allow LDCs to use belt clip CGIs for leakage surveys because Commission rules require the use of "approved" instruments that measure gas present in parts per million.³⁶ NGA states that the GTI White Paper shows "that a CGI or belt clip instrument is the most effective fit for purpose technology solution for conducting inside leak surveys."³⁷ NGA further states that 16 NYCRR §255.3(a)(24)'s requirements go beyond federal requirements by specifying detection thresholds "rather than broadly defining an appropriate, properly calibrated instrument for purposes of detecting gas-in-air concentrations indicative of a pipeline leak," which is why, NGA comments, CGIs should be allowed for inside leakage surveys.³⁸

NGA submits an Appendix A to its comments, which describes in detail GTI's support for NGA's recommendation that a parts per thousand level for leakage surveys is adequate and consistent with existing LDC practices inside buildings. In summary, GTI recommends use of CGI's for inside leakage surveys because:

1. Most inside gas piping is directly accessible for survey inside the building, as opposed to buried outside piping systems, where soil characteristics impede the migration of leaking gas to the ground level for detection.
2. Leakage is contained and concentrations will build within the confines of the structure and will not dissipate quickly, as is the case in an outdoor environment.
3. Detection thresholds at a part per thousand level have historically enabled the identification of potentially hazardous leaks on inside piping systems.

³⁶ See 16 NYCRR §255.3(24), "Leakage survey means a systematic survey made for the purpose of locating leaks in a gas piping system using an approved instrument which continuously analyzes atmospheric samples near ground level and is capable of detecting the presence of gas in parts per million in air."

³⁷ NGA at 5.

³⁸ NGA at 5.

4. Use of leak survey equipment on indoor piping at the parts per million detection threshold frequently hinders the leak survey process, as the background methane level may exceed this threshold when a leak is present.
5. Once a leak is detected at the parts per thousand level during a leak survey, the LDC begins its leak investigation process. An instrument at the parts per million detection threshold can be utilized, if necessary, during this follow-on process to accurately pinpoint the leak.
6. The parts per thousand detection level is consistent with the level of detection of natural gas odorant, which is the primary means for the general public to identify a natural gas leak.
7. A CGI or belt clip device with a threshold detection value of 0.1% gas in air (one part per thousand) has a 50 times margin of safety as compared to the [lower explosive level] LEL value of methane.³⁹
8. LDC leak survey technicians and emergency response personnel are already trained in the use of a CGI or belt clip devices for leak investigations of inside piping systems and they possess the equipment. Accordingly, use of this equipment under the conditions set forth above is the most efficient and cost effective way to proceed.⁴⁰

The plumber organizations similarly support the use of CGIs, saying that LMPs have been conducting a pilot program using devices that are "equipped with 'compliance safety' features that prevent use if not properly calibrated, have data logging capability, and can have their calibration monitored from remote locations." Remote monitoring allows for eventual monitoring by LDC operators of the calibration of equipment used for leakage surveys during compliance audits by the utility.⁴¹

Discussion

States like New York that participate in the federal pipeline safety certification program are required to meet or

³⁹ Methane is only explosive in a range of 5% to 15% concentration in air.

⁴⁰ NGA at 5-6; see Central Hudson at 7; National Grid at 10.

⁴¹ Plumbing Foundation at 2-3; MPC at 2; IMPW at 2.

exceed federal minimum standards for leakage equipment.⁴² Federal regulations are less specific than existing New York rules in that federal rules allow leakage surveys to be performed with, simply, "leak detection equipment."⁴³ At this time, Commission rules set specific detection standards for leakage survey equipment while also requiring that all gas detection devices be approved. The Commission's specific leakage detection criteria, however, is less appropriately applied to gas service line leakage surveys, which will be inside buildings not outside. Given this, approval of CGIs for inside gas leakage surveys is appropriate.

Approval of the use of CGIs to perform inside leakage surveys is granted because properly calibrated CGIs sufficiently measure natural gas concentrations to identify inside leaks. Inside leaks, as opposed to outside leaks, are in a contained space, which allows for use of a less precise device for detection. Where outside leaks exist, in comparison, the gas dissipates quickly, thereby requiring more sensitive detection devices. Moreover, the use of CGIs for indoor leakage surveys is consistent with federal pipeline safety rules and CGIs operate well to measure leaks in contained, inside areas; therefore, approval of CGIs for inside leakage surveys is warranted. The use of CGIs to perform outdoor leakage measurements is not approved.

Further, CGIs are relatively inexpensive and are already in use throughout the LDCs' service territories.⁴⁴ The fact that LDC leak survey technicians, emergency response

⁴² See 49 U.S.C. §§60105 and 60106.

⁴³ See 49 CFR §192.723(b) (1).

⁴⁴ Notably, the NYC Law specifies that CGIs shall be used to test for gas leaks to meet NYC's inspection requirements. See NYC Administrative Code §28-318.3.2.

personnel, and LMPs are already trained in the use of CGI devices for leak investigation of inside piping systems will save time and money in the completion of baseline and subsequent leakage surveys. Until Commission gas safety regulations are updated to include new requirements for devices used to perform inside leakage surveys or to specifically approve CGIs for performing inside leakage surveys, approval here allows LDCs to use CGIs for performing inside, but not outside, leakage surveys.

Use of Operator-Qualified Plumbers

The Straw Proposal included a discussion of the efforts the NYC LDCs had made up to that point to determine whether operator qualified Licensed Master Plumbers could perform the new inspections on behalf of LDCs. Those LDC/LMP efforts have advanced significantly since the Straw Proposal, as described below.

Comments

Con Edison and National Grid support the use of LMPs who have been operator qualified to complete the new inspections. National Grid notes that these inspections can "help identify abnormal operating conditions, including atmospheric corrosion and leaks, as well substandard conditions under existing NYC Department of Buildings (DOB) requirements and evidence of tampering/theft of service."⁴⁵ The NYC LDCs, in fact, actively assisted LMPs in developing a process whereby LMP training could be enhanced to adequately operator qualify LMPs to perform the leakage surveys and

⁴⁵ National Grid at 8.

corrosion inspections on behalf of the LDCs.⁴⁶ In contrast, ORU plans to use its own workforce to complete the inspections.⁴⁷ Central Hudson and NYSEG/RG&E had no comments on this proposal inasmuch as this issue, and other issues related to LMPs performing the inspections, are not relevant to their operations.⁴⁸ NFG clarified statements made in the Straw Proposal to say that NFG does not operator qualify Licensed Master Plumbers; rather, NFG offers limited training to plumbers to assist in installation of customer-owned plastic pipes.⁴⁹ The new training agreed to among the NYC LDCs and plumber organizations will train LMPs and plumbers working under their direct and continuing supervision to recognize abnormal operating conditions, conduct leakage surveys, and inspect inside piping for corrosion.⁵⁰

In Supplemental Comments, the NYC LDCs explain that the recently enacted NYC Law mandates that building owners complete inside gas service inspections that reflect what is required by PSC rules (as well as customer gas piping beyond PSC jurisdiction). LMPs and plumbers working under the direct and continuing supervision of LMPs are specifically authorized in the NYC Law to perform all of the required inspections.

While LMPs would conduct inspections of inside piping on behalf of the LDCs, the LDCs acknowledge they remain responsible for tracking regulatory compliance under 16 NYCRR

⁴⁶ Con Edison at 5; National Grid at 6. Pointing to the many opportunities LMPs have in obtaining access to inside gas piping, the Staff Straw Proposal recognized the many benefits of allowing LMPs to be sufficiently operator qualified to perform the inside inspections.

⁴⁷ ORU at 5.

⁴⁸ Central Hudson at 6; NYSEG/RG&E at 3.

⁴⁹ NFG at 8.

⁵⁰ National Grid at 7.

Part 255.⁵¹ LDCs state they will establish data sharing protocols with NYC DOB and LMPs to support the inspections and monitor compliance, so the Department of Public Service is able to audit the LDCs' compliance with the inspection requirements.⁵²

Con Edison further states, "an internal Quality Assurance/Quality Control ('QA/QC') inspection program would be required to allow Con Edison and National Grid to demonstrate compliance, including Operator Qualification and drug and alcohol testing compliance for any LMPs' signing of inspection affidavits."⁵³ Con Edison and National Grid, in their supplemental comments, ask the Commission to adopt "the rule that utilities may satisfy their requirements under the regulations through these inspections required by the New York City law to the extent that the law contains qualification requirements aligned with the Commission's requirements."⁵⁴

The NYC LDCs worked diligently with the Plumbers Foundation and agreed "in principle" to add new training elements for LMPs that would "cover gaps in existing [plumber] training programs."⁵⁵ IMPW, MPC, and the Plumbing Foundation support the process whereby Licensed Master Plumbers would be

⁵¹ The NYC Law requires building owners to provide to the NYC LDCs, within 90 days of the inspection, a copy of the inspection report. NYC Administrative Code §28-318.3.3(3).

⁵² National Grid at 7.

⁵³ Con Edison/ORU at 5; see NGA at 3.

⁵⁴ Supplemental Comments at 2, 5. The NYC Law leaves it up to NYC DOB to determine appropriate qualifications for LMPs performing the inside inspections. See NYC Administrative Code §28-318.3.1.

⁵⁵ Con Edison/ORU at 5; National Grid at 7.

sufficiently operator qualified to perform the required leakage surveys and corrosion inspections.⁵⁶

Discussion

The NYC LDCs are unique in needing additional manpower to complete the new inspections due to the large number of services that must be inspected in NYC.⁵⁷ Therefore, plumber organizations were invited to participate in both the hard rulemaking proceeding and this proceeding. To assess licensed plumbers' skill sets in order to allow them to assist in these endeavors, the NYC LDCs have worked closely and successfully with plumber organizations to identify the additional training and performance-based evaluations LMPs would need to receive to allow them to perform the inspections for which the NYC LDCs are responsible.

It is appropriate, therefore, to allow LMPs who are operator qualified to perform the covered tasks they are completing as identified by the LDCs (most notably National Grid

⁵⁶ IMPW at 2; MPC at 3-4; Plumbing Foundation at 3.

⁵⁷ The LDCs uniformly oppose a requirement that meter readers be operator qualified to perform leakage surveys. NGA at 4; Con Edison at 5; National Grid at 6; CHG&E at 5; NYSEG/RG&E at 2-3; NFG [which does use meter readers to survey for leaks and finds the practice useful] at 7. While this Order does not mandate that operator qualified meter readers be assigned to perform leakage surveys, recognition of meter readers as a cost saving mechanism will be considered in any review of cost recovery requests for performing leakage surveys.

and Con Edison) on behalf of the LDCs.⁵⁸ It is anticipated that required New York City regulations effectuating NYC Administrative Code §28-318.1 et. seq. will adopt the same LDC-led training criteria and evaluation process. LDCs remain solely responsible for ensuring that only LMPs who are sufficiently operator qualified, or are supervised directly and continuously by an LMP who is properly operator qualified, perform the required leakage surveys and corrosion inspections. To be considered operator qualified, all LMPs must be drug and alcohol tested in accordance with 16 NYCRR Part 262. Such LMPs may complete baseline inspections as well. While these requirements primarily focus on the NYC LDCs, each LDC statewide may enter into similar agreements with their local LMP organizations to achieve the same result if they deem it necessary to enlist assistance in completing the new inspections or for meeting inspection deadlines.

Even with the adoption of the NYC legislation, it remains incumbent on the NYC LDCs to demonstrate compliance with the Part 255 inspections and the 15-month and three-year deadlines enunciated in this Order. Notably, the NYC Law does not become effective until 2019 and inspections must take place every five years thereafter.⁵⁹ As such, building owners may not be willing to commission completion of the inspections until

⁵⁸ See 16 NYCRR 255.3(a)(9) ["Covered tasks are all activities, identified by the operator, that: (i) are performed on a pipeline facility; (ii) are operations and maintenance tasks; (iii) are performed as a requirement of this Part; and (iv) affect the operation or integrity of the pipeline." The NYC LDCs shall keep the Department informed of any process commenced by NYC DOB to approve qualification requirements so the Department can ensure no less training than Commission gas safety operator qualification requirements are adopted in the NYC DOB rules.

⁵⁹ NYC Administrative Code §§28-318.1 and 28-318.2.

they absolutely have to, in 2024. In comparison to the NYC Law's requirements, which need not be met for many years, baseline inspections to bring LDCs into compliance with 16 NYCRR Part 255's gas service line inspection requirements must be completed in 2018 (business districts) and 2020 (non-business districts). Practically speaking, therefore, it is possible that only after the initial baseline inspections are completed that building owners in NYC will assume responsibility for completing inspections. That being said, LMPs and plumbers working under the direct and continuing supervision of LMPs may still find opportunities to perform baseline inspections during repair visits and other work to assist the LDCs in completing the baseline inspections during the 15-month and three-year timeframes.

In sum, LMPs and plumbers working under the direct and continuing supervision of LMPs may perform both baseline and future inspections of inside gas services on behalf of the LDCs. It remains incumbent on the LDCs to ensure all LMPs are sufficiently operator qualified and that they are drug and alcohol tested in accordance with gas safety rules.

Compensation for Plumbers Performing Inspections

In the Straw Proposal, Staff sought comments on compensation and reporting proposals for surveys/inspections performed by LMPs as well as the drug and alcohol testing programs that would be adopted. Since LMPs would be performing work on behalf of LDCs, Staff wanted to make sure such plans were in place.

Comments

Con Edison and NGA comment that the use of LMPs to complete the Part 255 inspections should not be paid for by the LDCs and that LMPs should include such costs in the "Plumbing

Foundation business plan.”⁶⁰ Relying on the recent enactment of the NYC Law, which requires NYC building owners to complete what amounts to the Part 255 inspection requirements, the NYC LDCs explain that “plumbers would be compensated for the inspections by building owners,” which will optimize the cost of such inspections since these inspections will likely occur simultaneously with other required building inspections.⁶¹ NGA states that under the NYC Law, building owners would pay for the necessary safety inspections. In this way, the inspections can occur at the same time as other City-mandated inspections, such as sprinkler systems in multi-family dwellings.⁶² The NYC LDCs further explain that by including the Part 255 inspections with the other inspections LMPs perform, LMPs have a “business opportunity” that would justify the investment LMPs will make in taking any gap training necessary to be operator qualified and in remaining compliant with state and federal drug and alcohol testing programs.⁶³

The NYC LDCs further describe the extensive work they have completed in working closely with LMPs to develop the necessary training to fill the gap between existing licensed plumber training and operator qualification training. Con Edison/ORU and NGA describe an NGA/GTI training collaborative that “incorporate[s] OQ testing and records management into the NGA sponsored Industrial Training Services OQ Compliance Management System.”⁶⁴ The costs for this incremental curriculum and drug and alcohol testing, the LDCs explain, would be

⁶⁰ Con Edison/ORU at 6; NGA at 4.

⁶¹ Con Ed/ORU at 6; NGA at 4; National Grid at 7.

⁶² NGA at 3.

⁶³ Con Ed/ORU at 6; NGA at 3-4; National Grid at 8.

⁶⁴ Con Ed/ORU at 6; NGA at 4.

incorporated into LMPs' business plans. The NYC LDCs' comments state that the details for the entire process will be addressed "once the final [NYC] legislation is approved" (which has since occurred).⁶⁵

The LMP organizations agree with the LDCs. IMPW, MPC, and the Plumbing Foundation each state in their comments that the ability to expand the services they can offer building owners will sufficiently compensate them for the added training, the drug and alcohol testing by performing the inspections through business plans.⁶⁶

Discussion

While the cost of the new inspections required with the new service line definition eventually may be included in the cost of all inside safety inspections NYC building owners must complete, existing building owners have seven years (until 2024) to meet the NYC Law's inspection requirements. On the other hand, the Commission's baseline inspections must be completed in 2018 (business districts) and 2020 (non-business districts). Therefore, it remains incumbent on the LDCs to make sure a mechanism exists by which adequate compensation to LMPs for performing baseline inspections in the interim will occur.

Exceptions Based Inspection Reporting

In the Straw Proposal, Staff supported the use of exceptions based reporting of inspections "if the approach does not preclude the Department's ability to document a failure to complete a survey/inspection." In the proposal, Staff also sought the document upon which the LDCs relied that purportedly shows PHMSA has supported exceptions based reporting. NYSEG/RG&E provided in their comments a PHMSA document, which

⁶⁵ Con Edison/ORU at 6-7; NGA at 3.

⁶⁶ IMPW at 3; MPC at 4; Plumbing Foundation at 3.

states that an operator must acknowledge that "records may cover pipelines as a whole, and need not identify specific parts of the pipeline, such as customer meter sets".⁶⁷

Comments

As NGA describes it, under LDC operation and maintenance procedures, LDCs commonly document mandated work by "affirming inspections were completed;" when a problem is found, an exception is noted for future follow-up. NGA recommends that corrosion inspections and leakage surveys should, as is often the case with system-wide leak surveys, be "integrated," whereby a map route is developed and affirmative documentation of an entire "geographic area" would show the inspections occurred.⁶⁸ According to NGA, doing so avoids the need to change current LDC practice. Central Hudson asks that an explanation be provided of exactly how LDCs should document inspections and supports exception-based reporting "if it does not preclude Staff's ability to document a failure to complete a survey/inspection." Central Hudson further states it will "either amend its existing O&M Plan or create a new O&M Plan so that the procedure will define the inspection components, the acknowledgement of the completion of work and, if an anomaly is discovered, the documentation of exceptions for follow-up activity."⁶⁹ National Grid states each operator should "indicate how it intends to document completion of inspections in its individual baseline and frequency of inspections proposals" and seeks to use existing documentation methods for inside piping, acknowledging that inspections vary depending on "specific individual pipeline

⁶⁷ Response to Mr. Gerald F. Classen K N Energy, Inc. 300 N. St. Joseph Avenue P.O. Box 608 Hastings, NE from Cesar De Leon, Office of Pipeline Safety, July 15, 1993.

⁶⁸ NGA at 7.

⁶⁹ Central Hudson at 11.

components (such as operation of individual valves) that may be electronically confirmed as completed.”⁷⁰ LDCs often denote entire geographic areas as completed because, National Grid suggests, “details of the piping system” included in many areas are identical; therefore, only anomalies are documented. National Grid does not want to change its current method of exceptions based reporting of anomalies found.⁷¹ NFG supports allowing each LDC to decide whether to use exceptions-based reporting and supports LDC documentation that affirms “service line inspections were conducted in accordance with the operators’ specific procedures.”⁷² NFG also advocates not requiring any change in individual LDC’s existing procedures. NYSEG/RG&E support not changing their current procedures which use “quad maps” that show areas that have been leakage surveyed. They rely on their SAP and GIS records system to allow a “broader inspection documentation protocol such as [what they use to perform] system leak surveys.”⁷³

Discussion

Generally speaking, exceptions based reporting, to the extent it does not provide the Department sufficient information to audit and confirm that leakage surveys and corrosion inspections of individual piping and individual meters has occurred, is not acceptable. While documenting that a “geographic area” has been leakage surveyed provides some basis for outside leakage surveys, such a designation provides no way for Staff to verify that inspections of individual buildings, individual service lines, and/or meters have, in fact, taken

⁷⁰ National Grid at 13-14.

⁷¹ National Grid at 14.

⁷² NFG at 6

⁷³ NYSEG/RG&E at 2.

place nor to discern whether illegal or unauthorized services and meters exist in any one location. As we learned after the East Village incident, it takes only one unlawfully installed gas service line to cause a gas incident.⁷⁴

Therefore, the Commission agrees that an inspection recording system that does not preclude Staff's ability to document a failure to complete a survey/inspection is necessary. While we are mindful that these new inspections are an added responsibility, if current company procedures do not allow for individual inspections of individual services, those inspection procedures must change. Therefore, all LDCs shall ensure that their O&M Procedures include identification of the inspections performed for both leakage surveys and atmospheric corrosion inspections to the outlet of each meter in each building. Documentation shall be sufficient to specify the completion of the inspection of all internal piping to the outlet of each meter and, if an anomaly is discovered, shall document the exception(s) for follow-up repair as well as a timeline for completion of such work. LDCs shall submit to the Department such new procedures for Staff advice and consultation within 45 days of the date of this Order.

Tariff Changes to Enforce Access to Premises to Inspect Services

Acknowledging that access to inside gas services is the most challenging aspect of performing the required inspections, the Straw Proposal recommended all LDCs amend their tariffs if those tariffs do not already (1) allow for disconnection for failure to provide access to inside gas services and (2) impose the maximum fine when access is not

⁷⁴ We are mindful of PHMSA's advisory letter but find it neither binding nor appropriate for documenting inspections of local distribution companies' individual inside gas services.

provided. Staff further recommended that "when either a \$100 charge or shut-off is imminent due to the failure to provide access to a premises . . . LDCs should provide notice to the Department's Office of Consumer Services."⁷⁵

Comments

NGA and LDCs agree that getting access to inside buildings is, logistically, the biggest challenge of the inspection program.⁷⁶ Con Edison confirms that it charges a \$100 fee when a customer fails to provide access to company equipment. ORU charges \$25.⁷⁷ Central Hudson acknowledges it will have to change its tariff to "ensure a cost recovery mechanism" to collect the \$100 charge and to add specific billing language for missed appointments that cause the charge to be placed on bills.⁷⁸ National Grid agrees that tariffs should include a \$100 charge for failure to provide access.⁷⁹ Stating that access to premises is "the biggest challenge" in complying with any mandated access inspections and that repeat visits to obtain access increase LDC costs, ORU states its own tariff language "could be made clearer" with respect to disconnecting service when customers do not provide access to the meter.⁸⁰ Con Edison/ORU and National Grid state that scheduled appointments are the best way to gain access but are only effective if the customer does not cancel the appointment.⁸¹ While Con Edison/ORU state that charges for failure to provide

⁷⁵ Straw Proposal at 19.

⁷⁶ National Grid at 10; NFG at 6; Central Hudson at 8; NYSEG/RG&E at 4; and NGA at 6.

⁷⁷ Con Ed/ORU at 9.

⁷⁸ Central Hudson at 9.

⁷⁹ National Grid at 11.

⁸⁰ Con Edison/ORU at 9.

⁸¹ Con Ed/ORU at 9; National Grid at 10.

access are warranted, they and other LDCs ask that any customer complaints about charges levied for failure to provide access be removed from the customer service targets under LDC rate plans.⁸²

NYSEG/RG&E support new tariff provisions that allow them to charge \$100 on a customer's bill where necessary for missed appointments or if a customer refuses to allow the LDCs inside to perform inspections. NYSEG/RG&E and NFG support Commission authorization to allow an LDC to disconnect a customer after notice has been provided to the customer, a charge has been levied, and the Company still can't get inside to perform the inspection.⁸³ They also seek an adjustment to any customer service metric to account for any customer complaints about the \$100 charge or shutting off service.

NGA seeks "balance" in addressing consumer protections and gas safety inspection mandates and suggests attaching a fee for missed appointments, since an appointment is the most effective way to reach the meter, and if a customer refuses access.⁸⁴ NGA also recommends that "cost recovery mechanisms" be added to tariffs if a customer misses an appointment or refuses entry.

LDCs and NGA ask that Staff issue a letter that LDCs can use to explain to customers the importance of allowing access to meters.⁸⁵ The LDCs believe an official letter from Staff to all customers will better inform customers of the safety importance of the new inspections.

⁸² Con Ed/ORU at 9; National Grid at 11.

⁸³ NYSEG/RG&E at 4; NFG at 9.

⁸⁴ NGA at 6.

⁸⁵ Con Edison at 9-10; NGA at 6; Central Hudson at 9-10; NYSEG/RG&E at 4.

Discussion

The easiest and most obvious first step for all LDCs is for each to develop safety-related inspection notices to leave at customers' premises, to include as bill inserts, or place on company websites. The notices shall emphasize that inside access is necessary (1) to perform gas safety inspections; (2) that such inspections are required by law.

Public Service Law 65(9) provides, in pertinent part, that,

9. Buildings may be entered for the examination of meters, pipes, fittings, wires and works. (a) Any officer or agent of any gas corporation, electric corporation or municipality for that purpose duly appointed and authorized by the corporation, upon exhibiting a photo-identification badge and a written authority signed by the president or vice-president and secretary or assistant secretary of the corporation, or by the mayor or clerk of a municipal corporation or by the chairman and secretary of a municipal board in control of a public utility, may enter, at all reasonable times, any store, building, room or place supplied with gas, electricity or water by such utility corporation or municipality for the purpose of inspecting and examining the meters, pipes, fittings, wires and works for supplying or regulating the supply of gas or electricity and of ascertaining the quantity of gas or electricity supplied.

(b) If any person, at any time, directly or indirectly, shall prevent or hinder any such officer or agent from so entering any such premises, or from making any such inspection or examination at any reasonable time, he or she shall forfeit to the corporation or municipality one hundred dollars for every such offense.⁸⁶

Based on the Public Service Law and the requirement that LDCs perform safety inspections of meter sets and inside

⁸⁶ NFG explains that gaining access for the purpose of meter readings is addressed in the Home Energy Fair Practices Act, which allows for a \$25 charge for failure to obtain access for a meter reading. NFG at 7.

piping at regular intervals, it is reasonable that all LDCs at this time add to their tariffs a charge of \$100 for customers who refuse access or miss repeated appointments. To the extent they have not yet done so, LDCs shall make tariff filings to add this \$100 charge to their tariffs. The charge may be added to bills after two missed appointments or after one refusal of access. Advance notice to any customer that this will be the consequence for failure to allow access for these very important safety inspections is paramount. LDCs posting on their websites and adding as bill inserts information of the new safety inspection requirements and the \$100 charge for two failed appointments to provide access will provide this notice.⁸⁷

Similarly, a letter from Department of Public Service gas safety Staff, which LDCs can include in bills and post on their websites, is a reasonable way to emphasize to customers the importance of access and the possible charge. Because 16 NYCRR Part 255 requires that meters be installed in a "readily accessible location," LDCs must make reasonable accommodation to customers where access is difficult.⁸⁸

While the Straw Proposal posited, and some LDCs agreed, adding to tariffs that disconnection of gas service be a direct remedy for a customer's failure to allow access, this recommendation requires some modification. Simple failure to allow entry for safety inspections is not grounds for service termination. In any circumstance in which the LDC reasonably believes an emergency or unsafe condition exists, the LDC already has the authority to disconnect service, including

⁸⁷ Any adjustments to consumer complaint metrics on this issue should be addressed in either rate cases or in LDC responses to such metric tallies when they are applied.

⁸⁸ LDC tariffs that impose a charge to cover access costs to reach inside meters when customers refuse to move a meter outside upon a utility's request are also acceptable.

disconnection at the curb if necessary. Therefore, LDCs should first assess the \$100 fine. If the \$100 fine is billed and the fine goes unpaid, as some LDCs argue may occur, the LDC may terminate service for nonpayment following the already-existing termination procedures in Article 2 of the Public Service Law and 16 NYCRR Part 11.⁸⁹ If a customer is assessed the \$100 fine and pays the fine but still does not allow access, such a denial could signal an abnormal operating condition is being hidden from the LDC. Such cases should be addressed on a case-by-case basis, in consultation with Department Staff. Upon 15 days' notice to the customer (similar to termination notices for nonpayment in accordance with the Home Energy Fair Practices Act) and after notice to the Department Office of Consumer Services, the LDCs may disconnect service when a customer has paid the fine and still does not allow access. In such cases, the LDC may require completion of the inspection before reconnecting service. If an LDC expects it will be necessary to pursue disconnection under these circumstances, the LDC shall include the notice that will be used for this purpose in its tariff.

Cost Recovery for Performing New Inspections

National Grid states that cost recovery for the added O&M responsibilities to complete the new inspection requirements due to the expanded jurisdictional piping should be addressed in this proceeding.⁹⁰ Rate recovery for these O&M expenses, however, shall be considered in future rate proceedings.

At the beginning of this proceeding, the NYC LDCs, in particular, estimated upwards of \$50 million in O&M costs to complete the inspections. Con Edison, in its last rate case

⁸⁹ See e.g. 16 NYCRR §11.18.

⁹⁰ National Grid at 14.

asked for (but was not provided in rates) \$11 million to cover these costs plus deferral authority up to actual costs. This range make it obvious how difficult it is to project the actual level of costs that the gas utilities will incur to complete these inspections. Not only will the level of incurred costs vary among the gas utilities, they may not be material in nature. For example, the NYC Law allows LMPs to perform the inspections, which will be paid for by building owners, thereby mitigating the NYC LDCs' overall costs. Furthermore, after the baseline study is complete, it has not yet been decided how often the inspections will have to be repeated.

During the course of the recent KEDNY, KEDLI and Con Edison rate cases, these companies requested in rates amounts to cover the O&M costs of the inspections, anticipating the costs associated with compliance with new regulations before the costs were known.⁹¹ As such, the KEDNY and KEDLI Joint Proposal included exogenous clause provisions that anticipated potential changes in Federal regulations.⁹² Con Edison's Joint Proposal also identified this as a possible cost in the future and lists as the possible subject of a Con Edison deferral petition for incremental costs associated with complying with the amended gas service line definition.⁹³ The LDCs most likely to have costs

⁹¹ See Case 16-G-0059 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of the Brooklyn Union Gas Company d/b/a National Grid NY for Gas Service, Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plans (issued December 16, 2016).

⁹² Id., Joint Proposal at 30-31 and 80-81.

⁹³ Case 16-G-0061 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service, Order Approving Electric and Gas Rate Plans (issued January 25, 2017), Joint Proposal at 48.

associated with this Order, therefore, have terms in their respective rate agreements that include provisions providing mechanisms to address anticipated unknown future costs. Moreover, as with any other unanticipated cost, if an LDC can meet the well-established three-prong deferral criteria, the impacted LDC may seek the recovery of the costs in a deferral petition for the Commission's consideration. Before submitting any deferral petition, however, LDCs shall submit an implementation plan showing how they have executed the inspections in the most cost effective manner so that costs are contained.

CONCLUSION

The primary and most immediate requirement adopted in this Order - that each gas service line up to the outlet of the meter be inspected - differs from Staff's Straw Proposal due to recent revelations in NYC that meters have been placed into service unlawfully and in unsafe conditions. Only with a thorough baseline assessment of those meters can the public be assured that all inside gas services are safe. Therefore, in addition to the other rulings in this Order, baseline leakage surveys and atmospheric corrosion inspections shall be completed within 15 months (business districts) and three years (non-business districts) of the date of this Order.

The Commission orders:

1. Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid,

Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission shall complete baseline natural gas leakage surveys of each gas service line in business districts within 15 months of the date of this Order and atmospheric corrosion inspections within three years of the date of this Order. Unless the Public Service Commission grants a variance of future deadlines, subsequent leakage surveys in business districts must take place once each calendar year at intervals not exceeding 15 months and atmospheric corrosion inspections must be completed every three years.

2. Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission shall complete baseline natural gas leakage surveys and atmospheric corrosion inspections of each gas service line in non-business districts within three years of the date of this Order. Unless the Commission grants a variance of future deadlines, subsequent atmospheric corrosion inspections and

leakage surveys outside of business districts must take place at intervals not exceeding three years.

3. Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission may seek additional time to complete the baseline surveys for good cause shown by submitting a petition for a waiver of the 15-month and three-year deadlines. Such waiver requests shall include detailed documentation of the total number of gas services that must be inspected, the number that have been inspected as of the date of the waiver request, shall specify the steps the company has taken to obtain access or overcome any other obstacles met in attempting to meet the baseline inspection deadline, shall state the date by which such baseline inspections will be completed and, most importantly, shall provide an engineering analysis and risk assessment showing that the adjusted interval will provide an equal or greater overall level of safety in the company's gas system.

4. Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a

National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission shall submit to the Department of Public Service procedures for performing leakage surveys and atmospheric corrosion inspections for Department of Public Service advice and consultation within 45 days of the date of this Order. Such procedures shall sufficiently specify the completion of inspections of all internal piping and up to the outlet of each meter, shall show how the company will document any anomaly or exception for follow-up activity, and shall include a time-frame within which repairs of individual anomalies will take place. Leakage survey and corrosion inspection procedures shall be completed and recorded in a manner that allows the Department of Public Service to verify that the inspections of individual buildings, individual service lines, and/or meters have been made and to discern whether unlawful or unauthorized services and meters exist in any one location.

5. Combustible Gas Indicators are approved for use to perform inside leakage surveys.

6. Licensed Master Plumbers and plumbers working under the direct and continuing supervision of Licensed Master Plumbers who have been operator qualified to perform the covered task they are completing and who participate in approved drug and alcohol testing may complete, on behalf of the local distribution companies, the leakage surveys and atmospheric corrosion inspections addressed by this Order.

7. New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission are directed to file tariff amendments, on not less than 5 days' notice to become effective May 15, 2017, to include the addition of a \$100 charge on customer bills due when a customer fails to provide access for the purpose of performing required leakage surveys and atmospheric corrosion inspections in accordance with Public Service Law §65(9).

8. Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission are directed to file tariff amendments, on not less than 5 days' notice to become effective May 15, 2017, to provide that termination of gas service due to an end-use customer's failure

to provide access to allow for leakage surveys and corrosion inspections may occur after the local distribution company has charged the customer for failing to provide or allow such access to a premises and the customer has failed to pay such charge after the local distribution company follows the service termination procedures in Article 2 of the Public Service Law. Any local distribution company's tariff may provide for termination of gas service to a customer after, having charged the customer \$100 for failing to provide or allow access to a premises and the customer has paid the charge, the customer nonetheless refuses access to perform the inspections after (a) 15 days' notice to the customer and (b) with notice to the Department of Public Service. Such notice shall be submitted first to the Department of Public Service for review and shall be included in tariffs.

9. Notice of the tariff revisions required in Clauses 7 and 8 shall be subject to the requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 with respect to newspaper publication of the proposed changes and the tariff amendments directed.

10. Other than with respect to any deadline enunciated in 16 NYCRR Parts 255 or 262 and any extension of the 15-month and three-year deadlines for completion of baseline leakage surveys and atmospheric corrosion inspections, the Secretary in her sole discretion may extend the deadlines set forth in this Order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

11. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary