



Agenda Date: 12/20/23
Agenda Item: 6A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

RELIABILITY & SECURITY

IN THE MATTER OF REQUEST FOR A WAIVER OF)
NATURAL GAS PIPELINES RULE N.J.A.C. 14:7-1.19)
ORDER DENYING WAIVER)
REQUEST)
DOCKET NO. GX23070436)

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Stacey M. Mickles, Esq., Public Service Electric and Gas Company
Andrew K. Dembia, Esq., New Jersey Natural Gas Company
Sheree L. Kelly, Esq., Elizabethtown Gas Company and South Jersey Gas Company

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board”) considers a request by the gas distribution companies (“GDCs”) to waive the July 1, 2023 effective date of New Jersey Administrative Code new rule N.J.A.C. 14:7-1.19 – “Gas leak classification and repair” (“Leak Repair Rules”) and implement a new effective date of January 1, 2024.¹

BACKGROUND

The proposed Leak Repair Rules were published as part of the Chapter 7 Proposed Readoption with Amendments in the New Jersey Register on October 17, 2022 (“Rulemaking Proceeding”).² Comments on the proposed Chapter 7 rules were collected from interested parties through December 16, 2022. On April 26, 2023, the Board adopted the new Leak Repair Rules as part of the Rulemaking Proceeding.³ The proposed changes to Chapter 7 became final and took effect on June 5, 2023 when the Readoption with Amendments was published.⁴ Among these changes

¹ The GDCs are: Elizabethtown Gas Company (“ETG”), New Jersey Natural Gas Company (“NJNG”), Public Service Electric and Gas Company (“PSE&G”), and South Jersey Gas Company (“SJG”).

² 54 N.J.R. 1947(a) (Oct. 17, 2022).

³ In re the Proposed Readoption of Substantial Amendments to N.J.A.C. 14:7 – Natural Gas Pipelines, BPU Docket No. GX22020048.

⁴ 55 N.J.R. 1201(a) (June 5, 2023).

are the requirements of the new Leak Repair Rules to classify and repair leaks according to defined criteria and timeframes, effective July 1, 2023. The Leak Repair Rules require that Grade 1 leaks, representing hazardous leaks, be immediately made safe and permanently fixed within 1 week; Grade 2 leaks must be permanently repaired within six months of discovery and reevaluated every 30 days; and Grade 3 leaks must be permanently repaired within 2 years of discovery and reevaluated every six (6) months. The Leak Repair Rules also set forth criteria for determining the severity, or grade, of a leak based on the location of the leak, concentration of gas present, and other factors.

By joint letter dated June 29, 2023, the GDCs requested that the Board waive the July 1, 2023 effective date of the Leak Repair Rules and implement a new effective date of January 1, 2024 (“GDC Letter”). The GDC Letter stated that the new Leak Repair Rules would require revisions to forms, major upgrades/reprogramming of leak management systems, enhanced training/retraining of personnel, and verification of modifications to leak management systems.

On August 4, 2023, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments in response to the GDC Letter. Rate Counsel referred to its comments submitted in the Rulemaking Proceeding, where concern over the potential for additional costs was expressed and an argument was made to eliminate or modify the provisions of the Leak Repair Rules.⁵ Based on the information in the GDC Letter, Rate Counsel supported waiving the effective date of the Leak Repair Rules from July 1, 2023 to January 1, 2024 and requested that the GDCs be directed to quantify the costs associated with the modifications they have identified as necessary to allow them to comply with the Leak Repair Rules. Rate Counsel asserted that this information is necessary to determine the full scope of the GDCs’ obligations and whether further relief from the Leak Repair Rules is warranted.

By letter dated August 16, 2023, at the request of staff of the Board’s Bureau of Pipeline Safety (“BPS Staff”), the GDCs submitted additional information outlining the required implementation steps. Specifically, PSE&G is completing an upgrade to its tracking system; no further changes are being made to the existing system, and an interim solution is needed. ETG, NJNG, and SJG must also implement and verify coding changes in their existing work or asset management systems. The GDCs must also revise training material and requalify existing personnel in the updated classification requirements.

DISCUSSION AND FINDINGS

After careful review of this matter, the Board **HEREBY FINDS** that BPS Staff is responsible for ensuring compliance with the provisions of Chapter 7 and is authorized to issue a written Notice of Probable Violation upon discovery of a probable violation. N.J.A.C. 14:7-2.2. Based upon the information provided by the GDCs, the GDCs are currently not in compliance with N.J.A.C. 14:7-1.19, resulting in a probable violation of Chapter 7. The GDCs proposed, and Rate Counsel supported, a waiver of the Leak Repair Rules until January 1, 2024 to remedy non-compliance.

The Board has the authority in accordance with the general purposes and intent of its rules, to waive section(s) of its rules, for good cause shown, if full compliance with the rule(s) would adversely affect the interests of the general public. N.J.A.C. 14:1-1.2. However, a waiver of the Leak Repair Rules would prohibit BPS Staff from initiating an enforcement action based upon the Leak Repair Rules if it is determined that a significant safety issue within the purview of the Leak

⁵ BPU Docket No. GX22020048, Rate Counsel Comments (December 16, 2022).

Repair Rules warrants doing so. Therefore, the Board **HEREBY FINDS** that the waiver request is not in the interests of the general public and there is not good cause for waiving the Leak Repair Rules. The Board **HEREBY DENIES** the GDCs' waiver request. Notwithstanding, the Board retains enforcement discretion regarding non-compliance with any of its rules, including whether or not the circumstances warrant issuance of a Notice of Probable Violation pursuant to N.J.A.C. 14:7-2.2.

The Board also **HEREBY DENIES** Rate Counsel's request to require the GDCs to quantify the costs associated with the modifications, which the GDCs have identified as necessary, to comply with the Leak Repair Rules as a basis for relief from the Leak Repair Rules' requirements. The relative cost of such requirements was appropriately considered throughout the Rulemaking Proceeding and Rate Counsel will have the opportunity to review specific expenditures for compliance activities in detail in a subsequent appropriate ratemaking proceeding.⁶

This order shall be effective on December 27, 2023.

DATED: December 20, 2023

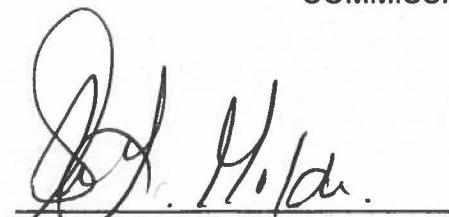
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COMMISSIONER


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER

ATTEST: 
SHERRI L. GOLDEN
SECRETARY

HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

⁶ See e.g., 55 N.J.R. 1201(a), Response to Comment 17.

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N.J.A.C. 14:7-1.19

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