

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 73]

[L-2019-3010270]

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

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

Executive Summary

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

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

Public Meeting held
June 13, 2019

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson; Norman J. Kennard; Andrew G. Place; John F. Coleman, Jr.

*Rulemaking Regarding Depreciation Reporting and
Capital Planning for Crude Oil, Gasoline, or
Petroleum Products Transportation Pipelines
52 Pa. Code Chapter 73; L-2019-3010270*

Notice of Proposed Rulemaking Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) adopts this Notice of Proposed Rulemaking Order (Order) to seek comments on proposed amendments to our public utility reporting regulations at 52 Pa. Code §§ 73.1, 73.3, 73.5, and 73.7 providing for annual depreciation reporting, service life study reporting, and capital

investment reporting. The existing regulations at 52 Pa. Code §§ 73.1—73.9 currently apply to electric service, gas service, and water service public utilities. The Commission proposes to require crude oil, gasoline, and petroleum products transportation pipeline public utilities to file annual depreciation reports, service life study reports, and capital investment plan reports in accordance with the provisions established in 52 Pa. Code Chapter 73.

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

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

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

In stating its purpose for promulgating the Chapter 73 regulations, the Commission determined that regular reporting of a public utility’s depreciation practices and capital planning is necessary to determine whether a public utility will be capable of providing safe, efficient, and adequate service currently and in the future. See 24 Pa.B. 4685 (Sept. 17, 1994); Rulemaking Re Public Utility Depreciation Practices and Capital Planning, Docket L-00920062 (Order entered July 22, 1994). The Commission also reasoned that it could not properly evaluate the justness and reasonableness of a public utility’s rates and rate structure without examining a company’s earnings and depreciation practices. However, the original rulemaking did not address the rationale for excluding petroleum transportation pipeline companies from the reporting requirements. At this time, the industry’s growth within the Commonwealth justifies including crude oil, gasoline, and petroleum products transportation pipeline public utilities in the list of entities required to comply with the depreciation and capital planning reporting provisions of Chapter 73. Submission of these reports ensures the Commission receives the information necessary to fulfill the duties imposed upon it by the Public Utility Code.

Accordingly, under the authority granted the Commission in Sections 501, 504—506, 1301, and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301,

and 1501; the Commonwealth Documents Law, 45 P.S. § 1204; the Regulatory Review Act, 71 P.S. §§ 745.1 et seq.; the Commonwealth Attorneys Act, 71 P.S. § 732-204; and the regulations promulgated at 1 Pa. Code § 7.4, the Commission proposes the amendments to regulations at 52 Pa. Code §§ 73.1, 73.3, 73.5, and 73.7, as set forth in Annex A; *Therefore,*

It Is Ordered:

1. That a proposed rulemaking be opened to consider the regulations set forth in Annex A.

2. That the Law Bureau shall submit this order and Annex A to the Office of Attorney General for review and approval and to the Governor's Budget Office for review for fiscal impact.

3. That the Law Bureau shall submit this order and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. That the Law Bureau shall deposit this notice of proposed rulemaking order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

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

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

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

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-326. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

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

§ 73.1. Purpose.

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

§ 73.3. Annual depreciation [reports] report.

(a) A public utility providing electric service, gas service [or], water service or crude oil, gasoline or

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

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

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

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

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

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

§ 73.5. Service life study report.

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

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

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

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

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

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

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

§ 73.7. Capital investment plan report.

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

leum products pipeline transportation public utility shall be filed with the Office of Special Assistants by August 31, 2020.

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

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

[Pa.B. Doc. No. 19-1469. Filed for public inspection October 4, 2019, 9:00 a.m.]