

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0078GPS

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING PIPELINE OPERATORS AND GAS PIPELINE SAFETY, 4 CODE OF COLORADO REGULATIONS 723-11 TO IMPLEMENT HOUSE BILL 23-1216 AND SENATE BILL 23-285.

**RECOMMENDED DECISION ADOPTING RULES AND
CLOSING PROCEEDING**

Issued Date: October 23, 2024

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I. PROCEDURAL BACKGROUND

1. On February 21, 2024, the Colorado Public Utilities Commission initiated this proceeding by issuing a Notice of Proposed Rulemaking (“NOPR”) to amend the Rules Regulating Pipeline Operators and Gas Pipeline Safety.¹ The NOPR proposed changes to Rules 11001, 11008, and 11206, described those changes in detail and the justification therefor, attached the Rules in redline/strikeout format and in a clean (legislative) version, established deadlines of March 22, 2024 and April 5, 2024 for initial comments and response comments concerning the proposed rules, respectively, and scheduled a remote hearing for April 15, 2024 at 11:30 a.m. for oral comments regarding the proposed rules. The NOPR also referred this proceeding to an Administrative Law Judge (“ALJ”). The proceeding was subsequently assigned to the undersigned ALJ.

2. Black Hills Colorado Gas, Inc., doing business as Black Hills Energy (“Black Hills”), Colorado Natural Gas, Inc. (“CNG”), and Public Service Company of Colorado (“Public Service”) filed initial comments. Black Hills, Atmos Energy Corporation, Public Service, and the Office of the Utility Consumer Advocate (“UCA”) filed response comments.

3. At 11:30 a.m. on April 15, 2024, the ALJ held the public comment hearing noticed in the NOPR. The ALJ discussed the proposed rules and the initial and response comments with the participants at the hearing. During the remote public comment hearing on April 15, 2024, the undersigned ALJ announced the continuation of the hearing.

4. On May 28, 2024, the ALJ issued Decision No. R24-0351-I that memorialized the continuance of the proceeding to June 24, 2024, at 11:30 a.m. Decision No. R24-0351-I also

¹ Decision No. C22-0099.

included additional proposed changes to the rules and set deadlines of June 11 and 18, 2024 for a second round of initial and responsive comments regarding the additional proposed changes.

5. Atmos, CNG, Public Service, and UCA filed second round initial comments on June 11, 2024, and Public Service and UCA filed response comments on June 18, 2024.

6. At 11:30 a.m. on June 24, 2024, the ALJ held the continued remote public comment hearing. The ALJ discussed the proposed rules and the initial and response comments with the participants at the hearing. The ALJ also set deadlines of July 11 and 18, 2024 for a third and final round of written comments regarding questions posed at the June 24, 2024, continued remote public comment hearing. The ALJ then adjourned the hearing.

7. On July 11, 2024, Public Service, Atmos, and Black Hills filed third round joint initial comments, and UCA separately filed its own initial comments. No participant filed response comments.

II. STATUTORY BACKGROUND

8. On May 22, 2023, Governor Jared Polis signed Senate Bill (“SB”) 23-285 that, among other things, forbade the Commission from promulgating rules regulating underground natural gas storage facilities., and changed the name of the Colorado Oil and Gas Conservation Commission to the Colorado Energy and Carbon Management Commission.

9. Governor Polis also signed House Bill (“HB”) 23-1216 on June 7, 2023, that amended § 40-2-115(1), C.R.S. by adding the following provisions:

(1)

....

(d)

....

(II) The commission's gas pipeline safety rules must address, and may be more stringent than required by federal standards with regard to:

....

(H) On or before March 1, 2024, requirements for the installation or reinstallation of service regulators by the owner or operator so that any vents associated with the service regulators are at least twelve inches above ground level and located in an area that is protected from external blockage; and

(I) On or before March 1, 2024, requirements for the visual inspection of gas meters and service regulators by a qualified individual no less frequently than every five calendar years with intervals not to exceed sixty-three months and record documentation of each inspection and for the owner or operator of the gas meter or service regulator to retain the documentation for the lifetime of the gas meter or service regulator.

10. HB 23-1216 also added § 40-2-115(1.5) & (2), C.R.S. as follows:
(1.5)

(a) On or before March 1, 2024, the commission shall promulgate rules to establish a process for determining whether an owner or operator or a customer has responsibility for the maintenance and repairs of a customer-owned service line installed on or after August 14, 1995, and before March 1, 2024.

(b) On or before March 1, 2024, the commission shall promulgate rules requiring an owner or operator that distributes natural gas to a customer-owned service line installed by the owner or operator on or after March 1, 2024, to provide written notice to the customer within ninety days after installation that, at a minimum, informs the customer whether the customer or the owner or operator is responsible for maintaining and repairing the customer-owned service line.

(c) The commission's rules pursuant to subsection (1.5)(b) of this section must include specific circumstances for when a customer may be responsible for maintaining and repairing the customer-owned service line and a requirement that:

(i) The owner or operator use best efforts to obtain a copy of the written notice described in subsection (1.5)(b) of this section with the customer's signature from the customer within ninety days after installation of the customer-owned service line;

(ii) With respect to the copy of the written notice described in subsection (1.5)(b) of this section that includes the customer's signature in accordance with subsection (1.5)(c)(i) of this section, the owner or operator:

(a) Provide a copy to the customer for the customer's records;

(b) Maintain a copy for the owner's or operator's records for the duration of the lifetime of the customer-owned service line;

(c) Provide a copy to an inspector upon request; and

(d) If the property on which the customer-owned service line is located changes ownership, use best efforts to obtain a new copy of the written notice described in subsection (1.5)(b) of this section with the new property owner's signature from the new property owner within ninety days after the change of ownership if the owner or operator is aware of the change; and

(iii) If the owner or operator fails to obtain a copy of the written notice described in subsection (1.5)(b) of this section with the customer's signature from the customer in accordance with subsection (1.5)(c)(i) of this section, the owner or operator either maintain proof of efforts to obtain the customer's signature or document the customer's refusal to provide a signature.

(d) Notwithstanding any other provision of this section to the contrary, an owner or operator is responsible for all maintenance and repairs of the portion of a service line that is upstream from the gas meter.

(e) Notwithstanding any provision in this section to the contrary, the commission's gas pipeline safety rules pursuant to this section must permit any activity that is within the best practices and standards for the industry given continuous improvement and changes to technology.

(2) As used in this section, unless the context otherwise requires, or as otherwise defined in commission rules:

(a) "Customer-owned service line" means the portion of the service line that extends downstream from the gas meter to the customer's primary residential or commercial structure that is serviced with natural gas.

(b)

(i) "Distribution system" means the piping and associated facilities used to deliver natural gas to customers.

(ii) "Distribution system" does not include the facilities that an owner or operator owns that are classified as production, storage, gathering, or transmission facilities.

(c) "Gas" means natural gas, flammable gas, and any gas that is toxic or corrosive.

(d) “Gas meter” means the meter that measures the transfer of gas from an owner or operator of a customer-owned service line to a customer.

(e) “Main line” means the portion of a distribution system that serves, or is designed to serve, as a common source of gas supply for more than one service line.

(f) “Owner or operator” means an owner or operator of a distribution system or an investor-owned natural gas utility.

(g) “Qualified” has the meaning set forth in 49 CFR 192.803.

(h) “Service line” has the meaning set forth in 49 CFR 192.3.

(i) “Service regulator” means the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. a service regulator may serve one customer or multiple customers through a meter header or manifold.

11. In the NOPR, the Commission proposed to make the changes required by SB 23-285 and HB 23-1216.

III. APPROACH

12. In rendering this Decision, the ALJ has carefully reviewed and considered all the comments filed in this Proceeding and provided at the public comment hearing, even if this Decision does not specifically address every comment, or every nuance of every comment.

IV. DISCUSSION, FINDINGS, AND CONCLUSIONS

A. Rule 11001 Definitions

1. Changes proposed in NOPR

- (i) “Gas” means ~~any material specified in these rules, including~~ natural gas, flammable gas, and any gas that is toxic or corrosive gas, or petroleum gas.

* * * *

- (II) “Pipeline” or “pipeline system” means all parts of those physical intrastate facilities through which gas moves in transportation, including, but not limited to, pipes, valves, and other appurtenances attached to pipes, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated

assemblies that start downstream beyond the farthest most point of oil and gas production. Flowlines that are regulated by the ~~COGCC~~ECMC and used for oil and gas production are not included in the definition.

* * * *

- (pp) “Pipeline safety program” (PSP) means the Commission’s pipeline safety program operated in accordance with the Commission’s 49 U.S.C. §§ 60105 (a) certification and 60106 (a) agreement~~-certified pipeline safety program.~~

* * * *

- (uu) “Program certification obligations and agreements” means the pipeline safety program obligations required under 49 U.S.C. § 60105 (a) and the pipeline safety agreements required under 49 U.S.C. § 60106 (b).

* * * *

- (aaa) “Service line” means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer’s piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

- (bbb) “Service regulator” means the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. A service regulator may serve one customer or multiple customers through a meter header or manifold.

- (~~ccc~~aaa) “Single structure, above-ground MMO/LPG system” or “SSAG System” means any MMO or LPG system that is:

- (I) a low-pressure gas distribution system;
- (II) is comprised wholly of above-ground piping/appurtenances; and
- (III) is contained wholly within or on a single continuous structure such as an apartment building, hotel, mall, etc.

(~~dddbbb~~) “Small operator” means any gas distribution system operator that operates less than 1000 natural gas distribution services in the state of Colorado.

(~~eeeeee~~) “Threshold MMO/LPG system” means any MMO or LPG pipeline system serving less than 20 customers.

(~~fffddd~~) “Transportation of gas” means the gathering, transmission, or distribution, of gas by pipeline, ~~or the storage of gas~~ within the State of Colorado that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act.

(~~gggeee~~) “UNCC/Colorado 811” means the Utility Notification Center of Colorado.

(~~hhhfff~~) “U.S.C.” means the United States Code.

a. Comments

13. Black Hills recommended consolidating all definitions from Proposed Rule 11205 into Rule 11001 because the definitions in Proposed Rule 11205 “appear to apply to the broader Pipeline Safety Rules,” and not just to the section entitled “customer-owned service lines” under which Proposed Rule 11205 falls.²

b. Analysis

14. The ALJ did not agree with Black Hills that all definitions in Proposed Rule 11205 should be incorporated into Rule 11001. However, because “distribution system” is referred to in the other definitions in Rule 11001 (as well as Proposed Rule 11205), the ALJ decided to move that definition to Proposed Rule 11001(h). Similarly, “service line” appears only once elsewhere in the Pipeline Safety Rules and “service regulator” does not appear anywhere in those rules. For this reason, and because PHMSA has definitions of “service line”

² Black Hills’ March 22, 2024 Comments at p. 2.

and “service regulator” that are incorporated into the Commission’s Pipeline Safety Rules,³ the ALJ eliminated the definitions of “service line” and “service regulator” from Proposed Rule 11001.

2. Changes Proposed in Decision No. R24-0385-I

15. The foregoing decisions were reflected in Decision No. R24-0385-I (with changes shown in blue to distinguish them from the redlined changes in Attachment A to the NOPR).

(h) “Distribution system” means the piping and associated facilities used to deliver natural gas to customers and does not include the facilities that an owner or operator owns that are classified as production, storage, gathering, or transmission facilities.

....

~~(xxww)~~ “Records” means information created, manipulated, communicated or stored in physical, digital, or electronic form. Records relate, but are not limited, to functions, policies, decisions, procedures, operations, or other activities of the utility.⁴

....

~~(aaa) “Service line” means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer’s piping, whichever is further downstream, or at the connection to customer piping if there is no meter.~~

~~(bbb) “Service regulator” means the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer.~~

³ Rule 11008(b), 4 CCR 723-4 (incorporating by reference “49 C.F.R. Part 192”).

⁴ This definition was erroneously proposed in Decision No. R24-0385-I. It had been adopted in a rulemaking out of which new Pipeline Safety Rules including this definition became effective on May 30, 2024.

~~A service regulator may serve one customer or multiple customers through a meter header or manifold.~~

3. Comments

a. Public Service

16. Public Service requests that the definition of “distribution system” in proposed Rule 11001(h) be replaced with the definition in Rule 4001(v),⁵ which is “the utility-owned piping and associated facilities used to deliver gas to customers, excluding facilities owned by a utility that are classified on the books and records of the utility as production, storage, or transmission facilities.” Public Service argues that such a change will “harmonize” the two definitions, thus ensuring that the same term will be interpreted consistently at the Commission.⁶

17. If the definition in Rule 4001(v) is not adopted, Public Service requests that “utility-owned” be added and “owner or” be deleted as follows:

(h) “Distribution system” means the utility-owned piping and associated facilities used to deliver natural gas to customers and does not include the facilities that an ~~owner or~~ operator owns that are classified as production, storage, gathering, or transmission facilities.⁷

Public Service contends that the addition of “utility-owned” clarifies that “‘distribution system’ excludes” customer-owned yard lines (“COYLs”)⁸ and the removal of “owner or” eliminates any potential “confusion around the party responsible for certain obligations and requirements related to COYLs.”⁹

18. Public Service also recommends substituting “operator” for “owner or operator” where the latter appears in the existing and proposed rules. Public Service states that the full

⁵ Public Service’s June 11, 2024 Comments at p. 4.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at p. 6.

context of every reference to “owner or operator” reveals that “operator” should instead be used. For example, Public Service points to Proposed Rule 11206 that imposes certain requirements regarding regulator and relief vents. The context reveals that these requirements are intended to apply to the operator, not the customer. As a result, replacing “owner or operator” with “operator” will clarify the responsible party for this and other obligations and requirements imposed by the rules.¹⁰

19. UCA supports Public Service’s proposed changes to Rule 11001(h).¹¹

b. CNG

20. CNG recommends substituting “compiled” for “manipulated” in the definition of “records” in proposed Rule 11001(xx). As justification, CNG asserts that “manipulated” lacks clarity and has a negative connotation. CNG believes that “compiled” is more consistent with the intent of the definition.¹²

4. Analysis

21. It is appropriate to add a definition of “distribution system” to Rule 11001 because that term is used elsewhere in the rules. Specifically, the term is used in the definition of “Single structure, above-ground MMO/LPG system” or “SSAG System” in Rule 11001. Defining “distribution system” thus adds clarity to the rules. Moving the definition of “distribution system” from Rule 11205(b) as proposed in the NOPR to Rule 11001(h) is appropriate given that the term appears in Rule 11001(bbb).

22. Public Service has not established good cause to specifically exclude COYLs or “customer-owned gas lines” (as defined below) from the definition of “distribution system”

¹⁰ *Id.*

¹¹ UCA’s June 18, 2024 Comments at p. 1.

¹² CNG’s June 11, 2024 Comments at p. 4.

proposed in the NOPR. The ALJ concludes that the full context of the rules makes clear that such lines are excluded from “distribution” systems. Including a longer list of exceptions to the definition could lead to less clarity, not more.

23. On the other hand, Public Service is correct that every reference to “owner or operator” within the rules is in a context in which requirements are being imposed solely on the operator. As a result, making the proposed substitution will enhance the clarity of the rules.

24. Finally, because the definition of “records” was erroneously included in Decision No. R24-0385-I and was included in rules adopted on May 30, 2024, CNG’s proposed changes will not be adopted.

B. Rule 11008 Incorporation by Reference

1. Rule Proposed in NOPR and Decision No. R24-0385-I

25. The proposed amendments to Rules 11008(a), 11008(b), and 11008(d) incorporate by reference the federal standards in the Pipeline and Hazardous Materials Safety Administration’s (“PHMSA”) regulations effective as of May 16, 2022, August 1, 2023, and May 2, 2023, respectively. The proposed amendments further state that the effective dates of the specific PHMSA regulations do not include later amendments to, or editions of, the federal regulations.

2. Comment

26. Atmos notes that PHMSA updated its regulations as of June 24, 2024, and then states that “it is unclear why the Commission’s Pipeline Safety Rules expressly exclude, rather than incorporate, more recent changes to PHMSA’s pipeline safety regulations.”¹³

¹³ Atmos’ June 11, 024 Comments at pp. 1-2.

3. Analysis

27. Atmos is correct that Rule 11008 should incorporate by reference the most recent PHMSA standards. Accordingly, the date of incorporation shall be the effective date of the section of the *Code of Federal Regulations* (“C.F.R.”) incorporated. Where whole parts of the C.F.R. are incorporated (*e.g.*, Rule 11008(b), (c), and (d)), the effective date cited in the rule is the latest effective of any subpart within the part.

C. Rule 11205 Definitions

1. Subsection (a) – “Customer-owned Service Line,” “Customer-owned Yard Line,” “Customer-owned Gas Line”

a. Definition of “Customer-owned Service Line” Proposed in NOPR

“Customer-owned service line” means the portion of the service line that extends downstream from the gas meter to the customer’s primary residential or commercial structure that is serviced with natural gas.

(1) Comments

28. Public Service disagreed with aspects of the definition contained in the NOPR for three reasons. First, Public Service argued that the defined term should be “customer-owned yard line,” not “customer-owned service line.” According to Public Service, using “service line” is confusing because the proposed definition is in tension with the existing federal definition of “service line” in 49 C.F.R. § 192.3,¹⁴ and the existing definition of “customer-owned yard line” in Rule 4551(a) of the Commission’s Gas Infrastructure Planning rules. As to the federal definition, 49 C.F.R. § 192.3 states that a “service line” is the portion of the piping owned,

¹⁴ 49 C.F.R. § 192.3 (“Service line means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer’s piping, whichever is further downstream, or at the connection to customer piping if there is no meter.”).

operated, and maintained by the utility, whereas the Commission’s proposed definition including “service line” identifies the portion of the pipe owned and maintained by the customer.

29. Similarly, Rule 4551(a) of the Commission’s Gas Infrastructure Planning rules include a definition of “customer-owned **yard** line” that identifies the portion of the pipe for which the customer, and not the utility, has the responsibility for fixing and maintaining.¹⁵ This is the same section of the pipe that Proposed Rule 11205(a) seeks to identify. The parties assert that making the defined term “customer-owned **yard** line” in Proposed Rule 11205(a), instead of “customer-owned **service** line,” will eliminate any confusion caused by using a different term in Rule 11205(a) for the same section of pipe in the Commission’s Rule 4551(a).¹⁶ It will also eliminate any confusion caused by using the same term to identify a different portion of pipe than that identified by the federal definition in 49 C.F.R. § 192.3.

30. Second, Public Service asserted that the definition in Rule 11205(a) should apply only to lines that have a portion of buried piping. Otherwise, the definition will apply to all, or virtually all, gas utility customers because their service includes piping between the outlet of the meter and the point at which the piping enters the customers’ structures. Such a broad definition will require the notification addressed elsewhere in HB 23-1216 to all gas customers. The participants believe that such an outcome is inconsistent with the intent of the legislation to require gas utilities to provide notification to only those customers with buried piping between a meter and the adjacent structure it serves. Buried piping carries more risk than above-ground piping because it must be uncovered to visually-inspect for deteriorating piping, whereas the deterioration of, and/or leaking by, above-ground piping is more likely to be discovered before

¹⁵ 4 CCR 723-4 (emphasis added).

¹⁶ Public Service’s March 22, 2024 Comments at pp. 4-5.

the deterioration and/or leaking magnifies into a critically dangerous situation. The participants also note that Rule 4551(a) defines “customer-owned yard line” as certain piping “running underground from the utility meter to a customer’s home, business, or other customer end use.” Thus, including a similar “underground” requirement in Rule 11205(a) would make Rules 4551(a) and 11205(a) consistent. Including an underground requirement will also limit the cost of the notification requirement and focus the notification on those customers with the highest risk customer-owned piping.

31. Third, Public Service proposed to add exclusions for master meters and industrial customers. As to the former, “the downstream piping from master meters is already jurisdictional to 49 CFR part 192 and should not be subject to the duplicative requirements under the Proposed Rules.”¹⁷ As to the latter, “these customers were excluded from HB 23-1216 and are aware of the maintenance requirements of fuel lines serving their industrial applications.”¹⁸

32. Finally, Public Service believed that HB 23-1216 provides the Commission with the authority to change the definition provided in that legislation. Specifically, the preamble to the definitions in HB 23-1216 states that the definitions proposed to be added to § 40-2-115(2), C.R.S. apply unless “unless the context otherwise requires, or as otherwise defined in commission rules.” Public Service believes that both the context and the other definitions in the Commission’s rules provide the authority to change the definition of “customer-owned yard line” in HB 23-1216.

33. Other participants supported the comments made by Public Service regarding Proposed Rule 11205(a).¹⁹

¹⁷ *Id.* at p. 6.

¹⁸ *Id.*

¹⁹ Black Hills’ April 5, 2024 Comments at pp. 1-2; Atmos’ April 5, 2024 Comments at p. 2

34. Colorado Springs Utilities contends that “customer-owned piping” is industry standard and most clearly conveys the infrastructure to which the requirements of HB 23-1216, and ultimately, the Commission’s adopted rules will, apply. Colorado Springs Utilities disfavored Public Service’s suggested “customer-owned yard line” or “COYL” because “yard” is unduly restrictive and conveys applicability to less than the full range of customer-owned piping within each pipeline operator’s service territory.²⁰ Colorado Springs Utilities also agrees with Black Hills, CNG, and Public Service that “customer-owned service line” should not be used because “this phrase conflicts with the federal definition of a “service line”, blurs the distinction between piping that is jurisdictional versus non-jurisdictional to 49 CFR Part 192, and adds confusion within the existing Pipeline Safety Rules.”²¹

(2) Analysis

35. The ALJ found and concluded that the comments and revisions proposed by Public Service and supported by the other participants were valid. For this reason, the ALJ made changes to Proposed Rule 11205(a) that were included in Attachment A to Decision No. R24-0385-I.

b. Definition of “Customer-Owned Yard Line” Proposed in Decision No. R24-0385-I

36. The revisions to the definition of “customer-owned service line” first proposed in the NOPR were as follows:

“Customer-owned ~~service~~ yard line” means the portion of the ~~service line~~ pipe that extends downstream from the gas meter to the customer’s primary residential or commercial structure that is serviced with natural gas, when the meter is located remotely from (i.e., not immediately adjacent to) the structure and at least a portion of the pipe between the

²⁰ Colorado Springs Utilities April 10, 2024 Response Comments at p. 4.

²¹ *Id.* at p. 3.

meter and the structure is buried. This definition excludes master meters and fuel lines serving industrial customers (e.g., power plants).

(1) Comments

37. CNG believes that including the “buried” requirement is confusing because “regardless of whether a portion of the pipe is buried, any pipe downstream from the gas meter would still be considered to be the customer’s responsibility.”²² CNG recommends making the following changes to Proposed Rule 11205(a) to remove this confusion:

“Customer-owned yard line” means the portion of the pipe that extends downstream from the gas meter to the customer’s primary residential or commercial structure that is serviced with natural gas, when the meter is located remotely from (i.e., not immediately adjacent to) the structure. ~~and at least a portion of the pipe between the meter and the structure is buried.~~ Utility-owned facilities end at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter. This definition excludes master meters and fuel lines serving industrial customers (e.g., power plants).

The added language is from 49 C.F.R. § 192.3.²³

38. UCA recommends changing the defined term back to “customer-owned service line” to be consistent with the term used in HB 23-1216, but then specifying that “customer-owned service line” is the same as “customer-owned yard line” as follows:

“Customer-owned service yard line” also known as a “customer-owned yard line” means the portion of the service line pipe that extends downstream from the gas meter to the customer’s primary residential or commercial structure that is serviced with natural gas, when the meter is located remotely from (i.e., not immediately adjacent to) the structure and at least a portion of the pipe between the meter and the structure is buried. This definition excludes master meters and fuel lines serving industrial customers (e.g., power plants).²⁴

²² CNG’s June 11, 2024 Comments at p. 2.

²³ *Id.*

²⁴ UCA’s June 11, 2024 Comments at p. 1.

UCA states that CNG's comments summarized above "raise[] valid concerns about . . . the definition of 'customer-owned yard lines.'" ²⁵

39. Public Service supports the definition proposed in Decision No. R24-0385-I and opposes the changes proposed by CNG. ²⁶

(2) Analysis

40. The ALJ finds and concludes that it is appropriate to include definitions for both "customer-owned gas line" and "customer-owned yard line" as follows:

"Customer-owned gas line" means the portion of the gas line that extends downstream from the outlet of the gas meter.

"Customer-owned yard line" is a customer-owned gas line in which the meter is located remotely from (i.e., not immediately adjacent to) the structure and at least a portion of the pipe between the meter and the structure is buried. This definition excludes master meters and fuel lines serving industrial customers (e.g., power plants).

41. The definition for "customer-owned gas line" is taken verbatim from HB 23-1216's definition of "customer-owned service line." The defined term has been changed from "customer-owned *service* line" in HB 23-1216 to "customer-owned *gas* line" here to be consistent with PHMSA's definition of "service line" in 49 C.F.R. § 192.3 that is incorporated into the Commission's gas pipeline safety rules. ²⁷ 49 C.F.R. § 192.3 defines "service line" as

a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

²⁵ UCA's June 18, 2024 Comments at p. 2.

²⁶ Public Service's June 18, 2024 Comments at p. 3.

²⁷ Rule 11008(b), 4 CCR 723-4 (incorporating by reference "49 C.F.R. Part 192").

Pursuant to PHMSA's definition, a "service line" ends at the outlet of the customer meter and is owned by the operator who has responsibility for its maintenance and replacement. Thus, using the term "customer-owned gas line," rather than "customer-owned service line," will eliminate inconsistency with PHMSA's definition of "service line."

42. The proposed definitions are also consistent with the Commission Rule 4551(a), which defines "customer-owned yard line" as "any customer-owned gas line running underground from the utility meter to a customer's home, business, or other customer end use." The definitions proposed above use the same terms in the same way as in Rule 4551(a). Further, the definition of "customer-owned gas line" does not include any language that could be interpreted as defining where it ends, as was the case with the definitions proposed in the NOPR and Decision No. R24-0385-I. The definition proposed above eliminates the risk of a gas customer interpreting the definitions as meaning that the customer is not responsible for the portion of the gas piping that extends from the outside of their structure to its termination point inside their structure.

43. Finally, providing a separate definition for "customer-owned yard lines" provides the basis for limiting the notification requirements addressed later in the proposed rules to the riskiest customer-owned lines, which are the customer-owned yard lines, thereby limiting the cost of the notification requirement, as requested by the participants in this Rulemaking. All of the participants in this Rulemaking agree that "customer-owned yard lines" as defined herein are significantly riskier than any other "customer-owned gas line" for several reasons. Installing meters other than immediately adjacent to the structure has not been the standard for an extended period. As a result, customer-owned yard lines are "leak prone" because of their age

and the fact they are typically made of “obsolete material.”²⁸ Further, detecting dangerous problems with “customer-owned yard lines” is far more difficult than with above ground “customer-owned gas lines.”²⁹ Several participants stated that problems with customer-owned yard lines can go undetected for significant periods.³⁰ Finally, meters located remotely from the structure they serve carries increased risk of the meter “being impacted by outside forces.”³¹ The participants agreed that the intent of HB 23-1216 was to focus the notification requirement discussed later on those gas customers who have customer-owned yard lines, and not on all customers.³²

44. The foregoing analysis is consistent with HB 23-1216, which states that the terms defined therein have the specified meanings “unless the context otherwise requires, or as otherwise defined in [C]ommission rules.”³³ As noted, the changes to the definitions included in HB 23-1216 above are required to make the definitions in the Proposed Rules consistent with Commission Rule 4551’s definition of “customer-owned yard line” and PHMSA’s definition of “service line” in 49 C.F.R. § 192.3 that is incorporated into the Commission’s rules. Further, by clarifying the definitions in light of other rules and PHMSA regulations, the changes make the definitions “clearly and simply stated so that [their] meaning[s] will be understood by any party required to comply with the regulation[s].”³⁴ As a result, the changes made to the definitions included in HB 23-1216 are required by HB 23 1216 and the Colorado Administrative Procedure Act.

²⁸ Black Hills April 5, 2024 at p. 2.

²⁹ Joint Utilities’ July 11, 2024 Comments at pp. 7-8.

³⁰ *Id.* at p. 7. See Transcript of April 15, 2024 Public Comment Hearing at pp. 27-28.

³¹ Black Hills April 5, 2024 at p. 2.

³² Joint Utilities’ July 11, 2024 Comments at p. 9.

³³ § 40-2-115(2), C.R.S.

³⁴ § 24-4-103(4)(b)(III), C.R.S.

45. Based on the foregoing, the ALJ finds and concludes that it is appropriate to include in the rules the separate definitions for “customer-owned gas lines” and “customer-owned yard lines” stated above. The titles of Rules 11205 and 11206 will be revised accordingly.

2. Subsection (c) – “Gas Meter”

a. Definition Proposed in NOPR

“Gas meter” means the meter that measures the transfer of gas from an owner or operator of a customer-owned service line to a customer.

(1) Comments

46. Black Hills asserted that the proposed definition “is confusing, ambiguous, and inaccurate” because it “implies that an owner or operator assumes ownership of *customer*-owned service lines.”³⁵ Black Hills recommended deleting “of a customer-owned service line” from the definition so it reads “‘Gas meter’ means the meter that measures the transfer of gas from an owner or operator to a customer.”³⁶ For the same reasons, CNG recommended deleting “from an owner or operator of a customer-owned service line” so the definition reads “‘Gas meter’ means the meter that measures the transfer of gas to a customer.”³⁷

47. Public Service and Colorado Springs Utilities prefers the change proposed by Black Hills.³⁸

(2) Analysis

48. The ALJ found and concluded that the comments and revisions proposed by Black Hills and supported by the other participants were valid. For this reason, the ALJ made

³⁵ Black Hills’ March 22, 2024 Comments at p. 4 (emphasis added).

³⁶ *Id.*

³⁷ CNG’s March 22, 2024 Comments at p. 2.

³⁸ Public Service’s April 5, 2024 Comments at pp. 6-7; Colorado Springs Utilities April 10, 2024 Response Comments at p. 3.

changes to Proposed Rule 11205(c) that were included in Attachment A to Decision No. R24-0385-I.

b. Definition Proposed in Decision No. R24-0385-I

49. The revision to the definition of “gas meter” proposed in Decision No. R24-0385-I was as follows:

“Gas meter” means the meter that measures the transfer of gas from an owner or operator ~~of a customer-owned service line~~ to a customer.

(1) Comments

50. Public Service and UCA support the proposed changes to the definition of “gas meter” proposed in Decision No. R24-0385-I.³⁹

(2) Analysis

51. The ALJ finds and concludes that the definition of “gas meter” contained in Decision No. R24-0385-I is consistent with the statutory intent HB 23-1216 as codified in § 40-2-115(2)(d), C.R.S. Specifically, the purpose of the definition is to provide a functional identification of a gas meter. The ALG agrees that the definition in HB 23-1216 injects ambiguity into both the definition of “gas meter” and “service line” because it suggests that owners can own a portion of a “service line,” which is contrary with PHMSA’s definition of the latter term. The ALJ finds and concludes that it is necessary to eliminate this ambiguity by eliminating “of a customer-owned service line” from the definition in HB 23-1216 and § 40-2-115(2)(d), C.R.S. and the definition proposed in the NOPR. In addition, “owner or operator” will be replaced with “operator” for the reasons stated above.

³⁹ Public Service’s June 11, 2024 Comments at p. 2; UCA’s June 11, 2024 Comments at p. 1.

3. Subsections (d), (e), and (f) – “Main Line,” “Owner or Operator,” and “Qualified”

a. Definitions Proposed in NOPR

- (d) “Main line” means the portion of a distribution system that serves, or is designed to serve, as a common source of gas supply for more than one service line.
- (e) “Owner or Operator” means an owner or operator of a distribution system or an investor-owned natural gas utility.
- (f) “Qualified” has the meaning set forth in 49 C.F.R. 192.803.

(1) Comments

52. Black Hills noted that “main line” does not appear elsewhere in the rules and is in tension with the definition of “main” at Rule 11001(r), which is consistent with PHMSA’s definition of “main” contained in 49 C.F.R. § 192.3. Similarly, Black Hills noted Rule 11001(bb) already defines “operator,” distinguishes between an “operator” and an “owner, such as a pipeline corporation,” and states that “operator . . . may include an owner.” Black Hills argued that the proposed definitions create ambiguity in light of the existing definitions noted above. Black Hills thus recommended that the definitions of “main line” and “owner or operator” be eliminated from the Proposed Rules.⁴⁰

(2) Analysis

53. The ALJ agreed with Black Hills’ proposal to eliminate the proposed definitions of “main line” and “owner or operator.” In addition, the ALJ concluded that because 49 C.F.R. § 192 has been incorporated into the Rules, there is no basis for specifically incorporating the definition of “qualified” contained in 49 C.F.R. § 192.803. These changes were reflected in Decision No. R24-0385-I.

⁴⁰ Black Hills’ March 22, 2024 Comments at pp. 5-6.

b. Definitions Deleted in Decision No. R24-0385-I

- (d) ~~“Main line” means the portion of a distribution system that serves, or is designed to serve, as a common source of gas supply for more than one service line.~~
- (e) ~~“Owner or Operator” means an owner or operator of a distribution system or an investor owned natural gas utility.~~
- (f) ~~“Qualified” has the meaning set forth in 49 C.F.R. 192.803.~~

(1) Comments

54. No party commented about the changes proposed in Decision No. R24-0385-I to Proposed Rules 11205(d), (e), and (f).

(2) Analysis

55. Based on the lack of comments regarding the foregoing proposed changes and the resulting implied agreement therewith, the ALJ finds and concludes that the deletion of Proposed Rules 11205(d), (e), and (f) proposed in Decision No. R24-0385-I is appropriate and will be adopted.

D. Proposed Rule 11206 Customer-Owned Service Lines**1. NOPR**

56. The NOPR proposed the following subsections of new Proposed Rule 11206:

- (a) In addition to the requirements outlined in 49 C.F.R. §§ 192.353 and 192.355, owners or operators must install or reinstall service regulator vents and relief vents to be at least twelve inches above ground level at the time of installation or reinstallation and located in an area that is protected from external blockage.
- (b) In addition to the requirements outlined in 49 C.F.R. § 192.481, a visual inspection of gas meters and service regulators is required by a qualified individual no less frequently than every five calendar years with intervals not to exceed sixty-three months. The documentation of each inspection shall be recorded and the owner or operator of the gas meter or service regulator shall retain

the documentation for the lifetime of the gas meter or service regulator.

- (c) The process for determining whether an owner or operator or a customer has responsibility for the maintenance and repairs of a customer-owned service line installed on or after August 14, 1995, and before March 1, 2024 is based on the location of the outlet of the meter. The piping located past the outlet of the meter is the customer's responsibility for maintenance and repairs. The owner's or operator's responsibility for maintenance and repairs ends at the outlet of the meter.
- (d) In addition to the requirements outlined in 49 C.F.R. § 192.16, an owner or operator that distributes natural gas to a customer-owned service line installed by the owner or operator on or after March 1, 2024, shall provide written notice to the customer within ninety days after installation that, at a minimum, informs the customer whether the customer or the owner or operator is responsible for maintaining and repairing the customer-owned service line.
 - (I) The owner or operator shall use best efforts to obtain a copy of the written notice described in paragraph (d) of this rule with the customer's signature from the customer within 90 days after installation of the customer-owned service line.
 - (II) With respect to the copy of the written notice described in paragraph (d) of this rule that includes the customer's signature in accordance with subparagraph (d)(I) of this section, the owner or operator shall:
 - (A) provide a copy to the customer for the customer's records;
 - (B) maintain a copy for the owner's or operator's records for the duration of the lifetime of the customer-owned service line;
 - (C) provide a copy to an inspector upon request; and
 - (D) if the property on which the customer-owned service line is located changes ownership, the owner or operator must use best efforts to obtain a new copy of the written notice described in paragraph (d) of this rule with the new property owner's

signature from the new property owner within ninety days after the change of ownership if the owner or operator is aware of the change.

(III) If the owner or operator fails to obtain a copy of the written notice described in paragraph (d) of this rule with the customer's signature from the customer in accordance with subparagraph (d)(I) of this rule, the owner or operator must either maintain proof of efforts to obtain the customer's signature or document the customer's refusal to provide a signature.

(e) Any work, including maintenance and repair, that is conducted past the outlet of the meter is part of the customer-owned service line and is the responsibility of the customer.

(f) Notwithstanding any other provision of this rule 11206 to the contrary, an owner or operator is responsible for all maintenance and repairs of the portion of a service line that is upstream from the gas meter.

(g) Notwithstanding any provisions in this rule 11206 to the contrary, the Commission's gas pipeline safety rules pursuant to this section must permit any activity that is within the best practices and standards for the industry given continuous improvement and changes to technology.

a. Comments

57. CNG and Public Service recommended that Proposed Rule 11206(a) specify that the requirements therein apply only to service regulator vents or relief vents installed or reinstalled on or after the effective date of Proposed Rule 11206(a).⁴¹ CNG also recommended that: (a) Proposed Rule 11206(d)(II) specify that the requirements therein apply “after March 1, 2024;”⁴² and (b) Proposed Rule 11206(d)(II)(D) require that the signatory acknowledge that he/she is the owner of the subject property.⁴³

⁴¹ CNG's March 22, 2024 Comments at p. 3, Public Service's April 5, 2024 Response Comments at p. 7.

⁴² CNG's March 22, 2024 Comments at p. 3.

⁴³ *Id.* at p. 4.

58. Public Service and Atmos supported the changes to Rule 11206(c) proposed in the NOPR. Specifically, Public Service and Atmos agreed that the outlet of the meter should be designated “as the point at which the owner or operator’s responsibility for maintenance and repair ends and the customer’s responsibility for maintenance and repair begins.”⁴⁴ Public Service also recommended that the reference to “inspector” in Proposed Rule 11206(d)(II)(C) be changed to “pipeline safety inspector” so that operators only be required to provide the records referenced therein to the latter inspectors.⁴⁵ Finally, Public Service recommended deleting Proposed Rule 11206(g) because it believes that the statutory directive contained therein applies to the process of implementing rules consistent with HB 23-1216.⁴⁶

59. Black Hills and Colorado Springs Utilities asserted that the documentation requirement in Proposed Rule 11206(b) “should be tied to the premise and not the specific gas meter or service regulator.”⁴⁷ As support, Black Hills states that it removes gas meters and regulators pursuant to the Commission-approved meter sampling program. Once tested and refurbished, the meters and regulators are “sent back to the field at a different time, often to a different state served by a Black Hills Energy affiliate” and “meters and regulators that were part of that meter set are very unlikely to be kept together as part of a future meter assembly.”⁴⁸

b. Analysis

60. The ALJ adopted the participants’ recommended changes to Proposed Rule 11206(a) and 11206(d)(II)(C). The ALJ made substantial changes to Proposed

⁴⁴ Public Service’s March 22, 2024 Comments at p. 7. *See also* Atmos Energy’s April 5, 2024 Comments at p. 3.

⁴⁵ *Id.* at p. 8.

⁴⁶ *Id.* at p. 9.

⁴⁷ Colorado Springs April 10, 2024 Comments at p. 5. *See* Black Hills’ March 22, 2024 Comments at p. 8 (“Black Hills recommends the Commission modify proposed Rule 11206(b) to require the documentation be retained for the premise, not for the life of the meter or regulator.”).

⁴⁸ Black Hills’ March 22, 2024 Comments at p. 8.

Rules 11206(c) and 11206(g) based on the input from the parties. The changes to Proposed Rule 11206(c) were designed to identify more clearly: (a) what portions of the piping customers and operators are each responsible for maintenance and repairs; and (b) a process for determining the two relevant portions. The changes to Proposed Rule 1206(g) are designed to comply with § 40-2-115(1.5)(e) codified in HB 23-1216 by stating that the Commission's rules must be read to permit best practices and standards in the industry.

61. The ALJ did not adopt CNG's recommendations with respect to Proposed Rules 11206(d)(II) and 11206(d)(II)(D). As to the former, Proposed Rule 11206(d) already specifies that it (and its subparts) apply to lines installed on or after March 1, 2024, so it is unnecessary to repeat that limitation again in subsection (II). As to the latter, the rule does not prohibit the inclusion of a requirement that the signatory acknowledge ownership of the subject property.

2. Decision No. R24-0385-I

62. The revisions to Rule 11206 proposed in Decision No. R24-0385-I were as follows:

Rule 11206. Customer-Owned Service Lines

- (a) In addition to the requirements outlined in 49 C.F.R. §§ 192.353 and 192.355, owners or operators must ~~install or reinstall~~ ensure that service regulator vents and relief vents installed or reinstalled on or after the effective date of this rule are at least twelve inches above ground level at the time of installation or reinstallation and located in an area that is protected from external blockage.

. . . .

- (c) Customers are responsible for maintenance and repairs of their customer-owned yard lines installed on or after August 14, 1995, and before March 1, 2024. The point at which responsibility for maintenance and repairs changes from owners and operators to

customers is the outlet of the meter, which is the point at which gas exits the meter and flows toward the customer's structure. Therefore, t~~The process for determining whether an owner/—or operator or a customer has responsibility for the maintenance and repairs of a customer-owned service gas line installed on or after August 14, 1995, and before March 1, 2024 is to first locate the outlet of the meter based on the location of the outlet of the meter. The piping located between the outlet of the meter and the customer's structure (which is referred to as "downstream" of the outlet of the meter) past the outlet of the meter is the customer's responsibility for maintenance and repairs. Owners or operators are responsible for maintenance and repairs of the meter and all other infrastructure on the other side (i.e., "upstream") of the meter. The owner's or operator's responsibility for the maintenance and repairs ends at the outlet of the meter.~~

- (d) In addition to the requirements outlined in 49 C.F.R. § 192.16, an owner or operator that distributes natural gas to a customer-owned serviceyard line installed by the owner or operator on or after March 1, 2024, shall provide written notice to the customer within ninety days after installation that, at a minimum, informs the customer ~~whether~~ that the customer ~~or the owner or operator~~ is responsible for maintaining and repairing the customer-owned serviceyard line.

....

- (II) With respect to the copy of the written notice described in paragraph (d) of this rule that includes the customer's signature in accordance with subparagraph (d)(I) of this section, the owner or operator shall:

....

- (C) provide a copy to an pipeline safety inspector upon request; and
- (D) if the property on which the customer-owned serviceyard line is located changes ownership, the owner or operator must use best efforts to obtain a new copy of the written notice described in paragraph (d) of this rule with the new property owner's signature from the new property owner within ninety days after the change of ownership if the owner or operator is aware of the change.

- (III) If, after best efforts, the owner or operator fails to obtain a copy of the written notice described in paragraph (d) of this rule with the customer's signature from the customer in accordance with subparagraph (d)(I) of this rule, the owner or operator must either maintain proof of efforts to obtain the customer's signature or document the customer's refusal to provide a signature.
- (e) Any work, including maintenance and repair, that is conducted downstream past of the outlet of the meter is part of the customer-owned serviceyard line and is the responsibility of the customer.
- (f) Notwithstanding any other provision of this rule 11206 to the contrary, an owner or operator is responsible for all maintenance and repairs of the meter and the portion of a service line that is upstream from the gas meter.
- (g) These rules are not intended to prohibit or foreclose the use of best practices and standards accepted in the industry. To the extent any such best practices and/or standards exist at the adoption of these rules, or subsequently develop, that are believed to be prohibited by these rules, these rules shall be construed to allow the use of such best practices and standards. Notwithstanding any provisions in this rule 11206 to the contrary, the Commission's gas pipeline safety rules pursuant to this section must permit any activity that is within the best practices and standards for the industry given continuous improvement and changes to technology.

a. Comments

63. As to Proposed Rule 11206(a), Atmos requested:

clarification regarding whether the proposed language would require the vent line to be extended above the highest level that snow might accumulate on a meter set and, if so, what the necessary level is. Given the realities of Colorado's climate and the Company's service territories in the state, this language should be clarified so owners or operators can comply with this requirement.⁴⁹

Public Service disagrees with Atmos' recommendation, noting that an earlier version of HB 23-1216 specified that vents must be "twelve inches above ground level or twelve inches

⁴⁹ Atmos' June 11, 2024 Comments at p. 2.

above any anticipated precipitation level, whichever is higher.”⁵⁰ However, the General Assembly removed this requirement before final passage of the legislation. Public Service further notes that 49 C.F.R. §§ 192.199(e) and 192.355(b)(2) require relief vents to be “designed to prevent the accumulation of water, ice, or snow, located where gas can be discharged into the atmosphere without undue hazard,” and operators to install relief vents to allow gas to freely vent to the atmosphere, respectively.⁵¹ Because there are multiple options for achieving adequate venting (not just extending the height of the vent), Public Service recommends not imposing the precipitation-based height requirement rejected by the General Assembly and instead leaving it to the discretion of the operator to meet the state and federal “requirements using the knowledge, experience, and materials specific to their service territory, consistent with PHMSA regulations and HB231216.”⁵²

64. CNG states that there is a mismatch between the title and contents of Proposed Rule 11206. Specifically, CNG states that subsections (a), (b), (d), (f), and (g) address requirements that apply to operators/utilities, and subsections (c) and (e) address customer-owned yard lines. Titling the rule “Customer-Owned Yard Lines” causes ambiguity because it does not take into account the majority of the subsections that apply to operators. CNG recommends breaking Proposed Rule 11206 into two rules, one that applies to customers (subsections (c) and (e)) and the other that applies to operators (subsections (a), (b), (d), (f), and (g)). The first (Proposed Rule 11206) could maintain the existing title and the second (Proposed Rule 11207) could be entitled “Service Lines and Meters.” Alternatively, the sections could be maintained within a single rule (Proposed Rule 11206) without a title or the existing title

⁵⁰ Public Service’s June 18, 2024 Response Comments at p. 5.

⁵¹ *Id.*

⁵² *Id.* at p. 6.

changed to “Utility Service Lines and Customer-Owned Yard Lines.”⁵³ CNG also recommends deleting “owner” from “owner and/or operator.” CNG believes that every reference to both in Rule 11206 should refer solely to the “operator” of the distribution system at issue.⁵⁴

65. UCA believes that CNG’s comment regarding the title of Rule 11206 raises “a valid concern.”⁵⁵ Public Service agrees with CNG’s last recommendation. Specifically, Public Service recommends replacing “owner or operator” throughout the rules with “operator.” In light of the deletion of the definition of “owner or operator” from Proposed Rule 11205, continued use of the term could cause confusion. Making the recommended substitution “will clarify the responsible party for this and other obligations and requirements.”⁵⁶

b. Analysis

66. The ALJ agrees with CNG’s recommendations and disagrees with Atmos’ recommendations. As to CNG’s recommended changes, the ALJ has broken Proposed Rule 11206 as proposed in the NOPR into three separate rules. Rule 11206 is entitled Division of Responsibility for Maintenance and Repairs that explains the process for determining the portions of gas lines for which customers and operators are responsible for the maintenance and repair thereof. HB 23-1216 required the Commission to “promulgate rules to establish a process for determining whether an operator or a customer has responsibility for the maintenance and repairs of” certain portions of a gas line serving the customer’s structure. Rule 11206(a) describes the process for making that determination, and Rules 11206(b) and (c) make clear that customers are responsible for the maintenance and repairs of “customer-owned gas lines” that

⁵³ CNG’s June 11, 2024 Comments at pp. 3-4.

⁵⁴ *Id.* at pp. 4-5.

⁵⁵ UCA’s June 18, 2024 Comment at p. 2.

⁵⁶ Public Service’s June 11, 2024 Comments at p. 6.

are, by definition, downstream of the outlet of the meter, and operators are responsible for maintenance and repairs of the meter and all infrastructure upstream of the meter.

67. Rule 11207 is entitled “Operator Duties” and describe the requirements that operators: (a) provide written notice to customers regarding their responsibility for maintenance and repairs of customer-owned yard lines installed on or after March 1, 2024 (Rule 11207(a)); (b) ensure that service regulators and vents installed after the effective date of these rules are at least 12 inches above ground level and protected from external blockages (Rule 11207(b)); and (c) perform visual inspections of gas meters and service regulators on the schedule originally specified in Proposed Rule 11206 (Rule 11207(c)). As to Rule 11207(c), the ALJ has retained “for the lifetime of the gas meter or service regulator” at the end of the rule because that language is included in HB 23-1216. The ALJ agrees with Black Hills and Colorado Springs Utilities that there is value in tying the documentation of the inspections to the premises at which the meters and regulators are located.⁵⁷ The ALJ finds and concludes that the language in HB 23-1216 does not foreclose that option.

68. Rule 11207(a) recommended by the ALJ limits the written notification requirement to customer-owned yard lines. It does not require operators to provide such written notification with respect to all newly-installed customer-owned gas lines. This is contrary to the plain language of HB 23-1216 that the notification requirement applies to “customer-owned service lines,” which the ALJ has interpreted as “customer-owned gas lines” for purposes of these rules. As a result, on its face HB 23-1216 requires operators to provide notification to all customers who have a customer-owned gas line installed on or after March 1, 2024.

⁵⁷ Colorado Springs April 10, 2024 Comments at p. 5.

69. However, the participants in this proceeding, including the UCA, agreed that the intent of HB 23-1216 is to limit the notice, signature, and records requirements of Rule 11207(a) to customer-owned yard lines at least in part to limit their cost. Black Hills stated that over the last five years it has installed between 3,000 to 5,000 new customer-owned gas lines on an annual basis.⁵⁸ Public Service has installed between 12,000 and 16,000.⁵⁹ If the notice, signature, and records requirements extend to all new customer-owned gas lines, the cost of those requirements would be significant. As the costs would be recoverable from ratepayers, the participants (including UCA) agreed that the intent of HB 23-1216 was to focus those requirements on the highest risk customer-owned gas lines, which are the customer-owned yard lines. In other words, in passing HB 23-1216, the General Assembly and Governor Polis did not intend to impose a substantial new cost requirement on ratepayers that would have resulted if the notice, signature, and records requirements extended to all new customer-owned gas lines.⁶⁰

70. For the foregoing reasons, the ALJ recommends adopting Rules 11206, 11207, and 11208 in the Attachments.

71. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the Commission adopt the attached rules.

V. ORDER

A. The Commission Orders That:

1. The Rules Regulating Pipeline Operators and Gas Pipeline Safety attached to this Recommended Decision are adopted.

⁵⁸ Transcript of June 24, 2024 Public Comment Hearing at p. 18.

⁵⁹ *Id.* at p. 36.

⁶⁰ Joint Utilities' July 11, 2024 Comments at pp. 8-9; Transcript of June 24, 2024 Public Comment Hearing at pp. 15, 28-32.

2. The rules in redline legislative format (showing changes to current rules) are attached to this Recommended Decision as Attachment A. The rules in final format are attached to this Recommended Decision as Attachment B. They are also available in the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0078GPS

3. Proceeding No. 24R-0078GPS is closed.

4. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

6. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

A handwritten signature in cursive script, reading "Rebecca E. White". The signature is written in dark ink and is positioned above the printed name and title.

Rebecca E. White,
Director