

**PROPOSED REGULATION OF THE  
PUBLIC UTILITIES COMMISSION OF NEVADA**

**LCB File No. R020-13**

Docket No. 12-11010

July 1, 2013

EXPLANATION – Matter in *bold italics* is new language.

AUTHORITY: Nevada Revised Statutes 704.210 and 704.185(2)

A REGULATION relating to public utilities that provide natural gas.

Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as Sections 1 to 22, inclusive, of this regulation.

**Section 1.** *“Early-Vintage Plastic Pipe” defined. “Early-vintage plastic pipe” means the plastic pipe materials that the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation has determined should not be used in the future for gas service, which includes but is not limited to pipe made out of acrylonitrile butadiene styrene (“ABS”), cellulose acetate butyrate (“CAB”), polybutylene (“PBL”), poly-vinyl chloride (“PVC”), Aldyl A and all other non-polyethylene (“PE”) plastics used for piping prior to 1990, as well as select types of PE plastics, including but not limited to, Century Utility Products medium density PE produced from 1970 through 1974, DuPont Aldyl A medium density PE, and 3306 high density PE using resin from Swanson, Orangeburg and Yardley. Early-vintage plastic pipe does not include any pipeline listed by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation as acceptable materials pursuant to 49 C.F.R. § 192.7.*

**Sec. 2.** *“Early-Vintage Steel Pipe” defined. “Early-vintage steel pipe” means the steel pipe installed in a natural gas system prior to 1971.*

**Sec. 3.** *“Gas Infrastructure Replacement” defined. “Gas Infrastructure Replacement” means the proposed non-revenue producing gas pipeline to be replaced via the gas infrastructure replacement mechanism, which includes replacements of master meter systems, early-vintage plastic pipe, early-vintage steel pipe, or any other non-revenue producing gas pipeline replacement project authorized by the Commission because the project would address a safety and reliability concern that justifies replacement on an accelerated basis and would otherwise serve the public interest.*

**Sec. 4.** *“Gas Infrastructure Replacement Advance Application” defined. “Gas Infrastructure Replacement Advance Application” means the application filed by a gas utility seeking a Commission determination to include specified gas infrastructure replacement projects in the gas infrastructure replacement mechanism.*

**Sec. 5. “Gas Infrastructure Replacement Mechanism” defined.** *“Gas Infrastructure Replacement Mechanism” means a mechanism that provides for the timely recovery of the incremental revenue requirement associated with replacement of gas infrastructure replacement projects between general rate cases.*

**Sec. 6. “Gas Infrastructure Replacement Projects” defined.** *“Gas Infrastructure Replacement Projects” means the projects proposed to be completed and included for recovery in the gas infrastructure replacement mechanism that are incremental in nature to the replacement the gas utility is already undertaking in the normal course of business for its gas infrastructure. The gas infrastructure replacement projects that are considered to be projects undertaken during the normal course of business and not incremental in nature will be evaluated at each general rate case of the gas utility where gas infrastructure replacement projects are being requested to be placed into rates by the gas utility.*

**Sec. 7. “Gas Infrastructure Replacement Rate” defined.** *“Gas Infrastructure Replacement Rate” means the rate determined in a gas infrastructure replacement rate application to recover the revenue requirement associated with the cumulative rate base at the end of the test years related to gas infrastructure replacement projects and to recover the difference between the costs and revenues recorded in the gas infrastructure replacement regulatory asset account as of the end of the test period. The gas infrastructure replacement rate becomes effective on January 1 of each calendar year subsequent to each test year.*

**Sec. 8. “Gas Infrastructure Replacement Rate Application” defined.** *“Gas Infrastructure Replacement Rate Application” means the application filed by a gas utility to establish or adjust the gas infrastructure replacement rate.*

**Sec. 9. “Gas Infrastructure Replacement Regulatory Asset Account” defined.** *“Gas Infrastructure Replacement Regulatory Asset Account” means the regulatory asset account where a gas utility will record the gas infrastructure replacement revenue requirement for the gas infrastructure replacement projects placed into service, offset by the revenue requirement associated with capital retirements resulting from the gas infrastructure replacement projects and the revenue the utility receives from the gas infrastructure replacement rate. The calculation of the gas infrastructure replacement regulatory asset account for projects that are approved to be included in the gas infrastructure replacement mechanism pursuant to the gas infrastructure replacement advance application shall begin the month following the in-service date of the projects and end on the month the projects are incorporated into rate base.*

**Sec. 10. “Gas Infrastructure Replacement Revenue Requirement” defined.** *“Gas Facilities Improvement Project Revenue Requirement” means amounts equal to:*

- 1. The depreciation expense for the capital costs of the gas infrastructure replacement projects;*
- 2. Accumulated deferred income taxes related to rate base; and*
- 3. Carrying costs on the gas infrastructure replacement projects equal to the current authorized pre-tax rate of return.*

*The revenue requirement calculated pursuant to this section shall reflect the revenue requirement associated with capital retirements resulting from the gas infrastructure replacement projects.*

**Sec. 11.** *“Master Meter System” defined. “Master Meter System” has the meaning ascribed in 49 C.F.R. Part 191.3.*

**Sec. 12.** *The regulations set forth in this subpart shall apply to public utilities that operate natural gas systems. Upon a request with good cause shown from a public utility that operates liquefied petroleum gas systems, the Commission may find that the regulations in this subpart may be applied to a utility that operates a liquefied petroleum gas system.*

**Sec. 13.** *The gas infrastructure replacement advance application shall:*

- 1. Be filed on or before June 1 of each calendar year or as otherwise provided by the Commission.*
- 2. Seek Commission determination of the gas infrastructure replacement projects to be included in the gas infrastructure replacement mechanism.*
- 3. Be deemed denied if the Commission has not acted within 135 days of the date the gas infrastructure replacement application is filed.*

**Sec. 14.** *1. The gas infrastructure replacement advance application shall provide sufficient evidence and be supported by sworn testimony to estimate the revenue requirement associated with the gas infrastructure replacement projects proposed to be included in the gas infrastructure replacement mechanism. The evidence shall include, but is not limited to, the following information:*

- (a) The number of miles of pipeline proposed to be replaced;*
- (b) A detailed map of the proposed early-vintage steel pipeline to be replaced that includes mileposts or other relevant local specific information and a more generalized map of the areas where early-vintage plastic pipe will be replaced for the forthcoming calendar year;*
- (c) The type of pipeline that is being replaced and the type of pipeline to be used in the replacement;*
- (d) The estimated cost of the materials to be used in the project;*
- (e) The estimated company labor costs for the project;*
- (f) The estimated contractor costs for the project;*
- (g) The estimates of loadings;*
- (h) The estimates of costs of any permits, rights-of-ways, studies or other governmental mandates required to replace the pipeline; and*
- (i) Any other estimates of costs to be incurred in the project.*

*□An applicant who cannot provide all the estimates as set forth in the categories above shall provide a reasonable explanation in the gas infrastructure replacement advance application as to why such information is not available to the applicant.*

*2. The gas infrastructure replacement advance application must include the following:*

- (a) A description, supported by sworn testimony, of the gas infrastructure replacement projects that provides sufficient evidence to support a conclusion that a safety and*

*reliability concern exists justifying replacement on an accelerated basis and that also discusses the public interest benefits associated with the proposed projects;*

*(b) A discussion of the gas utility's plan for gas supply throughout the utility's service territory during the next 10 year period, specifically including the gas supply plans that are known by the applicant for the upcoming 3 to 5 years and any projected changes in supply that may occur after the upcoming 3 to 5 years;*

*(c) An integrated plan for gas infrastructure replacement that balances the plan set forth in subsection (a) with the plan for gas supply throughout the utility's service territory during the next 10 years;*

*(d) A discussion of the alternatives studied by the gas utility to the plan set forth in subsection (a), with specific information as to why the alternatives for replacement were rejected for the upcoming calendar year; and*

*(e) An integrated analysis that establishes priorities among the gas utility's options for gas infrastructure replacement projects during the next 5 calendar years that takes into account safety and reliability risks and benefits as well as the plans for future gas supply to enable the Commission to determine the extent to which the utility's gas infrastructure replacement advance application balances the objectives of minimizing cost, mitigating risk and maximizing reliability of service over a period of 5 calendar years.*

*An applicant who cannot provide all the information as set forth in the categories above shall provide a reasonable explanation in the gas infrastructure replacement advance application as to why such information is not available to the applicant.*

*3. The gas infrastructure replacement advance application shall include an analysis to demonstrate that gas infrastructure replacements projects proposed are incremental in nature and are not projects that the gas utility is already undertaking in the normal course of business for its gas infrastructure. To establish the incremental nature of the proposed gas infrastructure replacement projects, the gas utility shall file:*

- (a) An explanation of the current replacement projects the gas utility is undertaking in the normal course of business or as committed to previously in a public document or filing; and*
- (b) An explanation identifying why the gas infrastructure replacement projects in the gas infrastructure replacement advance application are incremental and are not part of the projects identified in subsection (a).*

*The gas infrastructure replacement projects that are considered to be projects undertaken during the normal course of business and not incremental in nature will be evaluated at each general rate case of the gas utility where gas infrastructure replacement projects are being requested to be placed into rates by the gas utility.*

*4. The gas infrastructure replacement advance application shall be accompanied by a summary that is suitable for distribution to the public. The summary shall include:*

- (a) A brief introduction, addressed to the public, describing the gas utility, its facilities and the purpose of the gas infrastructure replacement advance application and gas infrastructure replacement mechanism;*
- (b) A description of the gas infrastructure replacement project(s) that the gas utility is requesting be completed through the gas infrastructure replacement mechanism and the reason for the gas infrastructure replacement project(s); and*

*(c) The estimated costs and the estimated revenue requirement associated with the gas infrastructure replacement project(s);*

**Sec. 15.** *All costs of the gas infrastructure replacement projects identified in gas infrastructure replacement advance application by the Commission to be included in the gas infrastructure replacement mechanism must be accounted for in the books and records of a gas utility separately from amounts attributable to any other activity. All accounts must be maintained in a manner that will allow costs to be readily identified.*

**Sec. 16.** *The gas infrastructure replacement rate shall:*

*1. Be filed on or before October 1 of the first calendar year after a gas infrastructure replacement advance application was decided by the Commission or as otherwise provided by the Commission.*

*2. Seek implementation of the gas infrastructure replacement rate.*

*3. In calculating the gas infrastructure replacement rate, the gas utility shall submit evidence in support of the recorded costs for the gas infrastructure replacement projects that occurred in the prior calendar year through August 31 and that evidence, if relevant, shall include, but is not limited to:*

*(a) The number of miles of pipeline replaced;*

*(b) The location of the pipeline replaced;*

*(c) The type of pipeline that was replaced and the type of pipeline used in the replacement;*

*(d) The actual cost of the materials used in the project;*

*(e) The actual company labor costs for the project;*

*(f) The actual contractor costs for the project;*

*(g) The actual costs of loadings;*

*(h) The actual costs of any permits, right-of-ways, studies or other governmental mandates required to replace the pipeline; and*

*(i) Any other costs incurred in the project;*

*4. Compare the estimates made pursuant to Section 14 with the recorded costs of gas infrastructure replacement projects and provide explanation for significant differences between estimated and recorded costs.*

**Sec. 17.** *The gas infrastructure replacement rate shall become effective on January 1 of the first calendar year after a gas infrastructure replacement rate application is filed.*

**Sec. 18.** *After the Commission has acted upon a gas infrastructure replacement advance application, a gas utility may deviate from the gas infrastructure replacement projects detailed in the gas infrastructure replacement advance application if such deviation does not result in more than a 20 percent change in the estimated gas infrastructure replacement project costs set forth in the gas infrastructure replacement advance application. A gas utility must fully support in the gas infrastructure rate application the reasons for the deviation and why the public interest was served by the deviation.*

**Sec. 19.** *1. A gas utility that has applied for and had approved three years of gas infrastructure replacement rates is not eligible to apply for another gas infrastructure*

*replacement rate until such time as the utility has filed a general rate case application pursuant to NRS 704.110, unless the gas utility has:*

*(a) Not later than 120 days before the date on which an applicant may file the gas infrastructure replacement advance application, requests a waiver of the requirement to file a rate case; and*

*(b) To support the waiver request, at a minimum, provided proof satisfactory to demonstrate that the applicant is not earning greater than its authorized rate of return and that it is in the public interest for the Commission to grant such a waiver.*

*2. The Commission shall, not later than 90 days after receiving a request for waiver pursuant to this subsection, issue an order approving or denying the request.*

*3. In considering whether to approve or deny a request for waiver of the requirement to file a rate case, the Commission shall determine whether a waiver is in the public interest. Such determination shall include, but is not limited to, consideration of whether the applicant is earning greater than its authorized rate of return.*

*4. The Commission shall not approve a waiver request that would permit a gas utility to file a gas infrastructure replacement advance application pursuant to subsection (1) if it has been 6 years or greater since the Commission issued a final order on a general rate application pursuant to subsection 3 of NRS 704.110.*

**Sec. 20.** *A gas utility shall not use the gas infrastructure replacement mechanism for any gas infrastructure replacement projects that would be completed during a general rate case application test period pursuant to NRS 704.110(3), a general rate case application certification period pursuant to NRS 704.110(3) or a general rate case application period for an expected change in circumstance pursuant to NRS 704.110(4).*

**Sec. 21.** *1. A Commission order resulting from a gas infrastructure replacement advance application or a gas infrastructure replacement rate application is not a determination of prudence related to the gas infrastructure replacement projects set forth in those applications.*

*2. The gas utility shall seek a determination of prudence in the first general rate case application filed pursuant to NRS 704.110 after the costs of gas infrastructure replacement projects are placed in a gas infrastructure replacement rate. In the general rate case application, the gas utility shall submit evidence in support of the recorded cost for gas infrastructure replacement projects completed since the gas utility's last general rate case and that evidence shall include, but is not limited to:*

*(a) All invoices for the gas infrastructure replacement projects, including invoices segregated at the project level if blanket contracts or invoices were used by the utility;*

*(b) All work orders for the gas infrastructure replacement projects, including work orders segregated at the individual project level if blanket contracts or work orders were used by the utility;*

*(c) A full accounting of the labor done by outside contractors and the utility for the gas infrastructure replacement projects; and*

*(d) All other evidence to sufficiently demonstrate that the costs of gas infrastructure replacement were prudently incurred and just and reasonable.*

**Sec. 22.** *1. With the exception of negotiated rate customers, the gas infrastructure replacement rate shall be collected from all customers of the gas utility based upon consumption of gas to each customer class in the 12 months prior to the filing of the gas infrastructure replacement rate application.*

*2. A negotiated rate customer shall pay a rate calculated separately that represents the costs associated with replacement of a pipeline segment or segments that benefit that negotiated rate customer. In determining this rate, the gas utility shall file with each gas infrastructure replacement advance application:*

*(a) A statement identifying every negotiated rate customer that would benefit from the replacement of a specific pipeline segment or segments proposed in the annual advance application;*

*(b) A statement identifying each negotiated rate customer that should be exempt from paying the gas infrastructure replacement rate pursuant to the contract with that negotiated rate customer and provide the necessary supporting documentation and legal arguments to determine the exemption;*

*(c) For any negotiated rate customer not identified subsection (2)(b), any arguments as to why a negotiated rate customer may be exempt from paying a rate calculated pursuant to this subsection for purposes of the gas infrastructure replacement mechanism, including but not limited to whether the negotiated rate customer has bypass options;*

*(d) A proposed rate for each negotiated rate customer that would benefit from replacement of a specific pipeline segment or segments proposed in the annual advance application;*

*(e) For any negotiated rate customer identified pursuant to this subsection, the consumption of gas to each of these negotiated rate customers in the 3 years prior to the filing of the gas infrastructure replacement advance application on the specific pipeline segment or segments proposed in the annual advance application that would benefit the negotiated rate customer; and*

*(f) Any other relevant evidence to support the rate proposed to be charged to each negotiated rate customer.*

*The rate for any negotiated rate customer identified pursuant to this subsection shall be calculated based upon a 3-year average of consumption for any negotiated rate customer on the specific pipeline segment or segments proposed in the annual advance application that benefit the negotiated rate customer. The 3-year average of consumption will be utilized to calculate an average consumption figure and will be compared to the percentage of consumption on the same pipeline segment or segments for all remaining gas utility customers calculated pursuant to subsection 1.*

*3. The gas infrastructure replacement rate for the negotiated rate customer determined pursuant to this section shall be charged to the negotiated rate customer after the utility has made a gas infrastructure replacement rate application that reflects the recorded costs of replacing the pipeline segment or segments benefit the negotiated rate customer. If the gas utility's costs as reflected in the gas infrastructure replacement rate application are more than 10 percent higher or lower than the estimates set forth in the gas infrastructure replacement advance application, the gas utility shall file appropriate data such that the rate can be recalculated in the gas infrastructure replacement rate application. In the gas infrastructure replacement rate application, no party shall be permitted to address whether the negotiated rate customer should or should not have to pay any gas infrastructure replacement rate.*

*4. If in a gas infrastructure replacement advance application it is determined that a negotiated rate customer is exempt pursuant to subsection (2)(b) of this section, the gas utility is not required in any subsequent gas infrastructure replacement advance application to address the applicability of this section to that specific negotiated rate customer, until the contract for that negotiated rate customer has been modified in any way or re-negotiated. A gas utility shall continue to identify the negotiated rate customer pursuant to subsection (2)(a), but shall state that such negotiated rate customer is exempt pursuant to this subsection and affirm that the contract with that customer has not been modified or re-negotiated.*

*5. For purposes of this subsection, a “negotiated rate customer” is defined as a customer that is served by a contract with negotiated rates by a gas utility pursuant to a utility tariff.*