



Pete Pedersen
Manager Compliance
Mid-Tex Division

February 6, 2014

Mr. David Ferguson
Damage Prevention Section
Pipeline Safety Division
Railroad Commission of Texas
Post Office Box 12967
Austin, Texas 78711-2967

Re: Informal Comment on Chapter 18 Draft Proposed Changes

Dear Mr. Ferguson:

Atmos Energy Corporation ("Atmos Energy") is one of the nation's largest natural-gas-only distributors with operations in eight states. Atmos Energy's Texas operation provides dependable, safe natural gas service to 627 municipalities and more than 1.9 million customers. Atmos Energy is pleased to have the opportunity to comment on the draft proposed Chapter 18 revisions. Our comments seek to refine the work already accomplished by the Commission in the goal of increased pipeline safety in the area of underground pipeline damage prevention. The Commission's consideration of our perspective is greatly appreciated. For ease of reference, Atmos Energy's comments are presented by proposed sub-paragraph.

Sincerely,

A handwritten signature in blue ink that reads "Peter C. Pedersen". The signature is fluid and cursive, with a long horizontal line extending to the right.

Peter C. Pedersen

Atmos Energy Corporation

Informal Comments

Railroad Commission of Texas

16 TAC Chapter 18-Underground Pipeline Damage Prevention

Draft Proposed Amendments – January 17, 2014

18.1(g)

Recommend that this provision be deleted as references to Title 49 CFR Parts 191, 192, 193 and 195 is redundant as each of the pipeline safety regulations cited have incorporated language as to applicability. Operators currently comply to federal and state regulations.

18.1(i)

The requirement to retain all records of abandoned underground facilities is very open ended for interpretation; recommend removing this requirement from Chapter 18. Should this remain in Chapter 18, please consider a date that Operators would have to retain records moving in to the future once the revisions of Chapter 18 are initiated.

18.1(i)(1)(2)

Operators are currently required to have comprehensive damage prevention programs and public awareness programs under 49 CFR Parts 192 and 195. Including such a requirement in Chapter 18 will be adding burdensome, overlapping and duplicate requirements and potential conflicts with existing requirements.

18.1(i)(3)

Operators are currently required to maintain procedures for installation of underground facilities meet or exceed compliance of 49 CFR Parts 192 and 195. In addition Operators, comply with the requirements of Chapter 8 through their DIM program including such a requirement in Chapter 18 will be adding burdensome, overlapping and duplicate requirements and potential conflicts with existing requirements. Recommendation is to remove these requirements as part of Chapter 18.

18.1(j)(4)

Operators are currently required to maintain procedures for installation of underground facilities that meet or exceed compliance of 49 CFR Parts 192 and 195. This requirement will cause construction costs to rise due to the construction practices that will have to be implemented in order to comply. Operators will have to change current O&M and Construction manuals. In addition, this change does not address legacy underground facilities. Recommend that this section be removed from Chapter 18.

18.1(j)(5)(6)

Operators currently have procedures within O&M manuals that meet or exceed the requirements within the draft of Chapter 18; we appreciate the effort that the Texas Railroad Commission is taking in respect to this very serious subject. The recommendation is to remove this requirement from the proposed revised rule.

18.1(k)

Operators are currently required to meet or exceed compliance of 49 CFR Parts 192 and 195, in addition to Chapter 8. The Texas Railroad Commission is empowered through these regulations and rules to write alleged violations in any instance where a potential violation may exist. Recommendation is to remove this requirement from the proposed revised rule.

18.2 (1)

Should the definition of “Abandoned” potentially remain part of Chapter 18, consider using the definition in 49 CFR Parts 192 and 195.

18.2 (11)

The Excavation Tolerance Zone should match the Accuracy Tolerance Zone this would better align the two and help to reduce confusion with Excavators and Operators. We are in support of a simple easy to follow tolerance zone as outlined in the CGA’s Best Practices 10.0. The Texas Railroad Commission is making an attempt to match the CGA and it is appreciated. In addition we would like to suggest that a diagram outlining the expectations be a part of Chapter 18 to better communicate to Excavators and Operators.

18.2 (13)

Suggest the use of the definition within TAC 251 or refer to TAC 251. Limits the definition to events associated with natural disasters and does not take in account all potential events as listed in Texas One Call Law-Texas Utilities Code Chapter 251.158 (a).

Suggest that definition mirror Extraordinary Circumstances as currently defined in Sec 251.158:

Sec. 251.158. DUTY OF OPERATOR IN EVENT OF AN EXTRAORDINARY CIRCUMSTANCE.

(a) The deadline prescribed by Section 251.157(a) does not apply if the operator experiences an extraordinary circumstance due to an act of God, including a tornado, a hurricane, an ice storm, or a severe flood, or a war, riot, work stoppage, or strike that limits personnel or resources needed to fulfill the operator's obligations under this chapter.

18.2 (19)

Consider adding wording to cover contractors that would be working on behalf of the Operator to pinpoint the source of a leak.

18.2 (25)

If the Operators are required to provide a positive response within the required time frame, and the only option is to mark, or send a notice that the area is clear, then when we have an agreed to response time between us and the excavator, we will fail to fulfill the positive response requirement every time.

18.2 (25) (a)

Edit out "written" as well.

18.3 (g)—same as 18.5 (f) (2)

If protocols are allowed, and they are established, then whoever does not fulfill the agreement under protocols should be held liable. If the requirements fall back to Chapter 18 because the excavator did not fulfill the agreement, the operator will be held liable nearly every time for not providing a positive response within the 48 hours (this is what most established protocols refer to).

18.3 (h) (1) (c)

Consider removing (c) an area having a circumference of 2640 feet. This will be difficult to manage for the call centers and locators to ensure they are covering the scope of work.

18.4 (f)

Second notice: does the new wording mean that the excavator does not have to stop excavating when it is determined a second notice must be made?

18.5 (a) (1) (D)

Should be wording from law regarding agreed-to time; the new wording referencing the agreed-to time in paragraph (f) of this section is not adequate. If we could arrive on site to obtain the excavator's signature, we would be able to mark the facilities and would not need to request a different agreed-to time. This feature is in the law for a reason.

18.5 (f) (2)

If the Operator makes an agreement with the excavator, and they decide not to hold up their end of the agreement, then requirements revert back to Ch18. The Operator could be left with the full responsibility of the agreement, and the excavator has no obligation to fulfill any agreement they make with an operator. It would be pointless to make a single agreement. In addition, there is no mechanism to report false emergencies within Chapter 18. Operators are in need of a section within Chapter 18 that addresses false emergencies this would help to reduce the number false emergencies and free up resources to address all line locate requests.

18.8 (a)

Mark All underground pipelines would require Operators to mark their own assets as well as all of the other Operators assets within the scope of the line locate request. Consider rewording this requirement.

18.8 (b) (1) (2)

As proposed, the standards are unrealistic in that they cannot be met by industry. Placing markings is not an exact science and greater flexibility that does not adversely impact safety should be allowed. The accuracy tolerance zone should match the excavation tolerance zone; matching tolerance zones would reduce confusion for Excavators and Operators.

We respectfully urge the Commission to revise the accuracy of markings provisions.

18.8 (c)

Recommend that this section remain as it is in the current Chapter 18. This indicates that an Operator could be responsible for locating all supplied lines connected. This is burdensome for the Operator to comply to.

18.8 (k)

Operators are currently required to meet or exceed compliance of 49 CFR Parts 192 and 195, in addition to Chapter 8. The Texas Railroad Commission is empowered through these regulations and rules to write alleged violations in any instance where a potential violation may exist. Recommendation is to remove this requirement from the proposed revised rule.

18.10 (b)

Define "Reasonable care"

18.10 (c)

This section should be potentially moved to the definitions.

18.11 (a)

It may be impossible to know all injuries that could possibly occur on a job site related to a third party damage. Operators are currently required to meet or exceed compliance of 49 CFR Parts 192 and 195, in addition to Chapter 8. The Texas Railroad Commission is empowered through these regulations and rules to write alleged violations in any instance where a potential violation may exist. Recommendation is to remove this requirement from the proposed revised rule.

18.11 (e)

Duplicative efforts should be an allowance that once an excavator has filed with the Commission, it is apparent they know the requirement. Requiring Operators to communicate within ten days of the damage is very burdensome and cumbersome in order to comply. Recommendation is to remove this requirement from Chapter 18.

18.11 (f)

Recommendation is to match the Pipes Act for accuracy in order for excavators to comply.

18.11 (g)

Recommendation is to consider writing this section to match or refer to TAC 251.

18.11 (h) (i)

Consider removing both of these sections from this draft of Chapter 18. Excavators and Operators currently investigate all damages.