

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	Docket No. 11-0671
Adoption of 83 Ill. Adm. Code 596)	

**BRIEF ON EXCEPTIONS
OF THE CITIZENS UTILITY BOARD**

NOW COMES the Citizens Utility Board (“CUB”), by and through its counsel pursuant to Section 200.830 of the Rules of Practice before the Illinois Commerce Commission (“Commission”), 83 Ill. Adm. Code 200.830, hereby submits as its Brief on Exceptions in the above-captioned proceeding:

CUB believes that the Administrative Law Judge’s Proposed Order (“PO”) dated June 4, 2012 correctly resolved most of the contested issues in this rulemaking. However, CUB believes that the PO’s conclusion rejecting CUB’s proposed inclusion of information regarding gas pipeline leaks, lost gas, and unaccounted for gas in the definition of “Inspection information” is contrary to the rest of the language in the proposed rule and is inconsistent with the federal initiative pursuant to which this rulemaking proceeding was initiated. PO at 10.

EXCEPTION #1

CUB proposed adding the language “or provided to the Commission by any person regarding pipeline leaks, lost gas, or unaccounted for gas” to Staff of the Commission’s proposed definition of “Inspection information” that would be made available to the public by the Commission. Init. Comments of CUB 4-5. This language was necessary, given that Illinois ranked as the sixth-highest state in terms of volume of natural gas lost and unaccounted for in 2010. *Id.* Moreover, CUB highlighted federal emphasis on identifying areas of high risk,

improving the safety and efficiency of gas pipelines, and allowing gas customers to be sure that their usage does not endanger their families and neighbors as reasons why the federal initiatives surrounding pipeline safety militate towards publicizing information regarding unaccounted for, and potentially hazardous, gas. *Id.* Citing to specific state law requiring the Commission to consider similar standards established in other states, CUB provided, as an example, Oregon’s administrative rules which require the consideration of leaks per mile of main and the percentage of unaccounted-for gas volume. *Id.*

The Proposed Order declined to adopt the addition of this information because it was “unnecessary and beyond the scope of the proposed rule.” PO at 10. Given the importance ascribed to lost, unaccounted for, and leaking gas by the federal authorities with jurisdiction over pipeline safety, CUB believes it is error to conclude that publication of such information is “unnecessary.” The only party to directly comment on CUB’s proposed language regarding unaccounted for gas asserted that the information was already publicly available and potentially the subject of annual review proceedings. Reply Comments of North Shore Gas Co. and The Peoples Gas Light and Coke Co. at 5 (Mar. 20, 2012). However, such information is not “publicly available” in the sense that it is not posted on the Commission’s website and accessing it physically requires significant costs. Reply Comments of CUB at 3-4.

Neither is CUB’s proposal beyond the scope of the proposed rule, since Staff recommends making available to the public “information contained” in certain inspection reports – as opposed to making the reports themselves publicly available. Initiating Order at 1. If Staff wanted to limit the scope of this rulemaking to simply turning over reports already in their possession to the public, it could have done so by recommending that the inspection reports themselves be made available to the public instead of the “information contained” in them.

Moreover, the federal initiative under which this rule was initiated clearly contemplates the publicizing of information regarding gas pipeline leaks as explained above.

The PO noted that information concerning pipeline leaks, lost gas, or unaccounted for gas should be included in Staff's reports to the extent that Staff obtains such information in connection with Gas Pipeline Safety Program inspections. *Id.* This directive to Staff does not obviate the need for the Commission to disclose, in a publicly accessible fashion, information regarding gas pipeline leaks, and lost or unaccounted for gas that affect the health and safety of Illinoisans whether or not such information is contained in any particular inspection report. The PO also notes concern that CUB's proposed language could lead to the dissemination of inaccurate information since the information proposed for publishing could be reported to the Commission by any person. *Id.* This position was not raised by any party to the proceeding and thus CUB has not had the opportunity to submit comments on this issue. Nevertheless, CUB notes now that any information made public on the Commission's website could contain a reference to the source of that information (including an "anonymous" source), obviating any concerns that the public would mistakenly rely on inaccurate information. Therefore, CUB proposes the following changes to the language contained in pages 10 through 11 of the Proposed Order:

The Commission finds CUB's first proposal to add inspection plans and reports to Staff's definition is reasonable and it is adopted. However, ~~the~~ Commission declines to also adopt CUB's second proposal to add information provided by any person regarding gas pipeline leaks, lost gas, and unaccounted for gas to Staff's proposed definition. ~~While the Commission believes Staff's proposed definition should be inclusive, the language proffered by CUB is unnecessary and beyond the scope of the proposed rule. The Commission notes that information concerning pipeline leaks, lost gas, or unaccounted for gas should be included in Staff's reports to the extent that Staff obtains such information in connection with Gas Pipeline Safety Program inspections of jurisdictional entities. Any additional information beyond information obtained during the course of Staff's inspections or other activities performed is beyond~~

~~the scope of the proposed rule. Additionally, the Commission is concerned that CUB's proposed language could lead to the dissemination of inaccurate information since the information it proposes to include can be reported to the Commission by any person. Accordingly, the Commission declines to adopt CUB's second proposal and Staff's proposed definition, as modified by CUB's first proposal~~ is adopted as follows:

Section 596.10 Definitions

* * *

“Inspection information” shall include all information that has come to the Commission in the course of any inspection or other activity performed by any agent or employee of the Commission, or provided to the Commission by any person regarding pipeline leaks, lost gas, or unaccounted for gas under the jurisdiction of the Illinois Gas Pipeline Safety Act [220 ILCS 20] (Act), including, without limitation, any account, record, memorandum, book, paper, document, plan, report, plant, facility, equipment or other property of any person subject to Commission jurisdiction under the Act, and irrespective of the medium in which the information exists.

Respectfully submitted,

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CITIZENS UTILITY BOARD



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