



July 26, 2021

Ona Papageorgiou, P.E.  
Chief, Mobile Source & Climate Change Planning  
Bureau of Air Quality Planning, Division of Air Resources  
New York State Department of Environmental Conservation  
625 Broadway, 11<sup>th</sup> Floor  
Albany, NY 12233-3250

**RE: Proposed 6 NYCRR Part 203, Oil and Natural Gas Sector**

Via Email

Dear Ms. Papageorgiou:

The Northeast Gas Association<sup>1</sup> (NGA) respectfully submits the following comments on behalf of our New York State natural gas local distribution company members (“LDCs”) in response to The New York State Department of Environmental Conservation (“DEC” or “the Department”) proposed rule, 6 NYCRR Part 203, Oil and Natural Gas Sector, published in the New York State Register on May 12, 2021. The stated goal of the proposed rule supports requirements of the Climate Leadership and Community Protection Act and aims to lower methane and VOC emissions for new and existing sources in NY’s oil and natural gas sector. The proposed rulemaking is also intended to fulfill the requirements of EPA’s 2016 Control Techniques Guidelines for the oil and gas industry.

For the purposes of this filing, the LDCs are:

- Central Hudson Gas and Electric Corp.
- Consolidated Edison Company of New York, Inc.
- Corning Natural Gas Corp.
- Hamilton Municipal Gas
- Liberty Utilities
- National Fuel Gas Distribution Corp.
- National Grid

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<sup>1</sup> NGA is a regional trade association that focuses on education and training, technology research and development, operations, planning, and increasing public awareness of natural gas in the Northeast U.S. NGA represents natural gas distribution companies, transmission companies, liquefied and compressed natural gas suppliers, and associate member companies. Its member companies provide natural gas service to over 13 million customers in 9 states (CT, ME, MA, NH, NJ, NY, PA, RI, VT).

- New York State Electric and Gas Corp.
- Orange and Rockland Utilities, Inc.
- Rochester Gas and Electric Corp.
- Valley Energy Inc.

New York State has committed to reducing greenhouse gas (GHG) emissions 40% by 2030 and 85% by 2050, from 1990 levels<sup>2</sup>. The Environmental Protection Agency (EPA) *Inventory of U.S. Greenhouse Gas Emissions and Sinks* shows that annual emissions from the natural gas distribution system declined 69 percent from 1990 to 2019, as natural gas utility companies added more than 788,000 miles of pipeline to serve 21 million more customers. . Distribution systems owned and operated by local natural gas utilities emit only 0.08 percent of produced natural gas. This downward trend in emissions underscores the valuable role that natural gas will continue to play in our nation’s clean energy future. The Northeast Gas Association and its members support both national and regional efforts to further reduce greenhouse gas emissions and are committed to reducing greenhouse gas emissions through smart innovation, new and modernized infrastructure, and advanced technologies that maintain reliable, resilient, and affordable energy service choices for consumers.

The Department recognized in its May 2018 public outreach materials associated with this rulemaking that it did not intend to establish regulations applicable downstream of the “City Gate” (custody transfer locations) or portions of the overall gas value chain referred to as LDC’s. As supported by the recently issued NYSERDA Final Report regarding New York State Oil and Gas Sector Methane Emissions Inventory, the overall value proposition associated with additional regulatory requirements for the Gas Distribution Sector, beyond which both State and Federal pipeline safety rules apply as well as current EPA Subpart W requirements, will have limited overall incremental value in achieving emission reduction goals.

Comments below are offered to provide additional clarity as to applicability of the final rule for all affected parties and to avoid unintended consequences of misinterpretation of the rule as to application to certain LDC operations.

#### Comments:

##### 203-1.1 General Applicability (a)

**(6) Natural gas metering and regulating stations** requires additional clarification as these facilities are often physically shared by both distributing gas utility companies and natural gas pipeline companies or transmission system operators. NGA believes the intent here was natural gas metering and regulating station equipment and facilities *upstream* of the custody transfer demarcation point. NGA suggests the following alternate language for consideration by the Department in addition to a revised definition of 203-1.3(17) “Metering Station”.

(6) Natural gas custody transfer metering and regulating stations

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<sup>2</sup> New York State Oil and Gas Sector Methane Emissions Inventory  
NYSERDA Final Report | Report Number 19-36 | July 2019

### 203-1.3 Definitions

**(b)(3) “City Gate”** requires additional clarification to address the intended purpose of describing a point of delivery from a gas pipeline operator / transmission system operator to a distribution system operator. NGA suggests the following revised definition for consideration by the Department:

“City Gate” means a point or measuring location where custody transfer occurs between a natural gas transmission system pipeline company/operator (or “Supplier”) and a distribution system company/operator (or “Local Distribution Company (LDC))”.

**(b)(17) “Metering Station”** requires additional clarification to address the intended purpose of describing a facility, typically in conjunction with a regulating station, where natural gas is continuously monitored for quality and quantity upstream of the custody transfer point. This clarification would help eliminate confusion as to applicability to downstream distribution system operators that may share metering or monitoring signals from upstream of the custody transfer demarcation point within a facility. NGA suggests the following revised definition for consideration by the Department:

“Metering Station” a facility with device(s) intended to measure the quantity and/or monitor the quality of natural gas upstream of a custody transfer demarcation point.

**(b)(19) “Natural Gas Gathering and boosting station”** requires additional clarification to eliminate confusion in applicability downstream of custody transfer (aka “City Gate”). The current proposal states that such a station includes “...all equipment and components associated with moving natural gas to a natural gas processing plant, transmission pipeline, or *distribution pipeline*.” It does not seem feasible that a facility normally considered a “gathering and boosting station”, as the term is normally used in the oil and gas industry, would be directly connected to a local distribution system. It would be less confusing if the Department were to clarify the definition in the following manner:

“Natural gas gathering and boosting station” means all equipment and components associated with moving natural gas to a natural gas processing plant, or transmission pipeline. or distribution pipeline.

**(b)(21) “Natural gas transmission pipeline”** requires additional clarification to eliminate confusion in applicability associated with distribution system operator custody transfer demarcation points. NGA understands the Department’s desire to adopt a definition parallel to recent proposals by the New York State Department of Public Service<sup>3</sup> and Federal Gas Safety Regulations.

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<sup>3</sup> CASE 20-G-0560 - In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR - Proposed Amendments to Chapter I, Rules of Procedure, Subchapter A, General, Part 10, Referenced Material; and Chapter III, Gas Utilities, Subchapter C, Safety, Part 255, Transmission and Distribution of Gas, to Ensure Conformance with Title 49, Code of Federal Regulations, Part 192, Transportation of Natural and Other Gas by Pipeline.

However, for purposes of this rulemaking, the proposed regulation does not define the meaning of the term “distribution center” so it is not clear if the Department is referring to a transmission pipeline custody transfer point (a.k.a. “City Gate”) that connects a transmission pipeline to a local distribution company. In the context of this proposal, the LDC’s feel it is imperative to further define the term “Distribution Center” to avoid confusion in applicability.

Additionally, it is important to note the proposed second criterion for a “natural gas transmission pipeline” includes a pipeline that “operates at a hoop stress of twenty (20) percent or more of specific minimum yield strength”. Local distribution companies – that portion of the oil and gas system that the Department does not intend to regulate – can operate pipelines within their systems downstream of the City Gate that meet this criterion. The proposed definition would mean that Part 203 jurisdiction would extend to portions of an LDC that are already regulated by the New York State Department of Public Service (DPS) and the Pipeline and Hazardous Materials Administration (PHMSA) and subject to EPA Subpart W requirements. During the 2018 stakeholder process, the Department stated that it was its objective to avoid this overlapping jurisdiction and to limit its jurisdiction to transmission pipelines upstream of the City Gate.

NGA proposes adding the following definition to facilitate clarification in how the proposed rule is applied considering the definition of a natural gas transmission pipeline. The proposed definition is similar in content and structure to that identified by the Gas Pipeline Safety Advisory Committee (GPAC):<sup>4,5</sup>

“Distribution center” means the demarcation point where gas piping used primarily to deliver gas to customers who purchase it for consumption, for example, at City Gate metering and/or pressure reduction custody transfer location(s) that define a gas franchise territory.

Please consider the proposed definition, which could be modified to reflect intended applicability as follows:

(21) "Natural gas transmission pipeline" means a pipeline, other than a gathering line, and upstream of a City Gate that:

- (i) transports gas from a gathering line or storage facility to a distribution center City Gate or storage facility, or directly to a large volume user that is not-downstream upstream from a City Gate distribution-center; or
- (ii) operates at a hoop stress of twenty (20) percent or more of specific minimum yield strength; or
- (iii) transports gas within a storage field.

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<sup>4</sup> Comments on Pipeline Safety: Safety of Gas Transmission Pipelines, MAOP Reconfirmation, Expansion of Assessment Requirements and Other Related Amendments Filed by American Gas Association, American Public Gas Association, American Petroleum Institute, Interstate Natural Gas Association of America, May 1, 2018

<sup>5</sup> Pipeline Safety: Meeting of the Gas Pipeline Safety Advisory Committee, 82 Fed. Reg. 51760 (November 7, 2017). The GPAC is a peer review committee charged with providing recommendations on the technical feasibility, reasonableness, cost-effectiveness, and practicability of PHMSA’s proposed safety standards for gas pipeline facilities. 49 U.S.C. §§ 60102(b)(2)(G), 60115.



## 203-6 City Gate

NGA suggests the following clarifications describing intended applicability:

### 203-6.1 Metering and Regulating

(a) Applicability: The requirements in this section apply to all metering and regulating components at the City Gate upstream of the custody transfer demarcation point between a natural gas pipeline company/transmission system operator and a distribution system operator.

(b) Metering and regulating components upstream of the custody transfer demarcation point are subject to the LDAR requirements in Subpart 203-7

### 203-7.1 Leak Detection Monitoring Techniques

As the Department is aware, the DPS regulates LDC leak detection monitoring, classification, and mitigation measures in 16 NYCRR Part 255, Transmission and Distribution of Gas (Part 255). Further, DPS regulations go beyond Federal Regulation in requiring approval of all leak survey and leak detection equipment with listed approved equipment posted on the DPS webpage. In addition to mandated periodic leak surveys, LDC's are required to ensure natural gas is odorized to meet more stringent DPS requirements (some of the most stringent leak/odor detection threshold requirements in the country). Lastly, LDC's are subject to comprehensive leak monitoring, reporting and mitigation as part of Federal EPA Subpart W requirements as well as Federal Pipeline Safety Compliance requirements mandated in 49 CFR Part 192. In combination, these existing mandated leak detection monitoring, reporting and mitigation requirements provide the visibility and layers-of-protection around leak detection and mitigation the Department is ultimately seeking.

The proposed rule sets a threshold for leaks, or "fugitive emissions", at 500 ppm CH<sub>4</sub> and VOC (see proposed 203-7.1(a) (1) and (2)). Proposed section 203-7.1 also includes a detailed description of how an owner or operator could secure Department approval for an alternative method of leak detection.

To eliminate any possible confusion associated with leak detection, using equipment already in use and approved by DPS for that purpose in New York, NGA recommends that the Department include a new provision as 203-7.1(d) that specifically authorizes the use of any instrument approved under the provisions of 16 NYCRR Part 255.3(a)(24) for "leakage survey".

16 NYCRR Part 255.3(a)(24) states: "Leakage Survey means a systematic survey made for the purpose of locating leaks in a gas piping system using an approved instrument (emphasis added) which continuously analyzes atmospheric samples near ground level and is capable of detecting the presence of gas in parts per million in air." An earlier paragraph of the same regulation (16 NYCRR Part 255.3(a)(5)) states "approved (emphasis added) means prior approval must be granted by the department", which in this instance is the New York State Department of Public Service.

Thus, gas utilities in New York are already equipped with and using analytical tools that have been approved for leak detection to a level consistent with the Department's requirement because of their ongoing compliance with leak survey requirements in 16 NYCRR Part 255.



A specific reference to that existing regulation would ensure accurate leak detection without any confusion over whether a specific tool meets the Part 203 requirements.

NGA suggests the following clarification for consideration by the Department:

(d) Owners and operators may comply with the provisions of this section by utilizing a device approved for the use in "leakage survey" under the terms set forth in 16 NYCRR Part 255.3(a)(24)

- (1) The approved device must be set to detect fugitive emissions as small as 500 ppm CH<sub>4</sub>.
- (2) The approved device must be calibrated in accordance with the manufacturers' instructions.

### **Compliance Dates**


Many provisions of the proposed rule set a compliance date of January 1, 2023. NGA believes that this is a reasonable expectation to set for new installations given the likely schedule for completing this rulemaking. However, for existing facilities that need to undergo capital improvements to comply with the provisions of this rulemaking, a January 1, 2023, compliance date is not feasible. NGA recommends a phase-in glidepath commensurate with the complexity of conformance by individual Operators including submittal of operator specific conformance plans by the January 1, 2023, deadline. The conformance plans would facilitate a sound engineering approach to system retrofits planning and serve as a basis for cost recovery discussions with DPS.



## **Conclusion**

The LDCs and NGA appreciate the opportunity to provide the above comments. Please contact us if you have any questions.

Respectfully submitted,



By: Thomas M. Kiley  
President & CEO  
Northeast Gas Association  
75 Second Avenue, Suite 510  
Needham, MA 02494

For further information please contact:

José M. Costa  
Vice President, Operations Services  
Northeast Gas Association  
75 Second Avenue, Suite 510  
Needham, MA 02494  
781-455-6800 ext. 1090  
[icosta@northeastgas.org](mailto:icosta@northeastgas.org)

or,

Lawrence R. Cambalik, P.E.  
Manager,  
Gas Operations & Engineering,  
Central Hudson Gas & Electric  
Corporation  
Chairman, NGA New York  
Advisory Committee  
284 South Avenue  
Poughkeepsie NY  
10977 845-577-3515  
[lcambalik@cenhud.com](mailto:lcambalik@cenhud.com)