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David Ferguson  
Pipeline Safety Division  
Railroad Commission of Texas  
PO Drawer 12967  
Austin, TX 78711

RE: Informal comments of CenterPoint Energy Arkla, CenterPoint Energy Entex and CenterPoint Energy Intrastate Pipelines, LLC regarding draft amendments to 16 TAC Chapter 18 released January 17, 2014; GUD Docket No. 10130

Dear Mr. Ferguson:

The Railroad Commission recently issued another series of draft amendments to the Underground Pipeline Damage Prevention rules of the Commission presently codified at Chapter 18 of Title 16 of the Texas Administrative Code. The second draft of the rules proposes a number of changes to the current procedures for damage prevention in Chapter 18 as well as other new pipeline safety programs.

These comments are submitted by CenterPoint Energy Arkla, CenterPoint Energy Entex and CenterPoint Energy Intrastate Pipelines, LLC ("CEIP"), which are operators of gas pipeline systems registered with the Commission. CenterPoint Energy Arkla and CenterPoint Energy Entex are local distribution companies engaging in intrastate natural gas sales and natural gas transportation for more than 1.5 million residential, commercial and industrial customers in the State of Texas. CEIP operates approximately 240 miles of gas transmission pipelines serving 120 customers in Texas. For purposes of these comments, all these entities were referred to collectively as "CenterPoint".

**I. New Design, Operations and Maintenance Programs.**

The Commission's damage prevention rules were originally designed to promote safe excavation around underground pipelines. Thus, the rules of Chapter 18 concentrate on the following issues:

- A requirement that excavators call 48-hours before digging to allow operators to mark their lines.
- Procedures for the marking of lines by operators.
- The rules for safely digging while working around underground pipelines.
- Damage reporting requirements

As stated in Section 18.1(a) of both the current rules and this new draft, these rules were adopted to implement the mandate to develop safety standards and best practices for the prevention of damage pursuant to Texas Health and Safety Code Section 756.126. They also build on the success of the Texas One Call Law<sup>1</sup>, which created the Texas one call system and first required excavators to call before they dig to avoid damage to underground facilities.

While this new draft addresses many of these procedural issues, it also contains in Section 18.1 five new pipeline safety design, operations and maintenance programs, four of which were not included in the last draft. The new programs are proposed in the following sections:

- Section 18.1(j)(3) – Operators would be required to implement a program for making underground pipeline facilities locatable. The term “locatable” is not defined in the rules, yet operators are required to include and report non-locatable pipe systems or segments as part of their integrity management programs required in 16 TAC Section 8.209 and Section 8.101.
- Section 18.1(j)(4) – This section requires a program specifying that plastic pipe must have a tracer wire or other means of locating the pipe while underground. It then goes on to contain specifications for the installation of this equipment.
- Section 18(j)(5) – This section will require programs to prevent “cross bore type intersections” of underground structures such as sewer, drainage water and water lines.
- Section 18(j)(6) – This section requires a program to minimize the risks associated with directional drilling and other trenchless technology. The section goes on to state that the program must include actions to recognize the dangers associated with this boring and requires operators to insure that their company and contractor personnel follow unspecified practices.

Each of these programs addresses important operational and design issues in the industry. Indeed, CenterPoint already maintains procedures to address each of these issues in some fashion. However, they also implicate important engineering, operations, maintenance and rate

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<sup>1</sup> Tex Utilities Code Chapter 251

issues that should be addressed in a separate rulemaking rather than in one dedicated to amendments to Chapter 18. The issues created by the locatability program of proposed Section 18(j)(3) will be further addressed in the next section of these comments. Other issues raised by these changes include reconciling the installation standard for tracing wire of 6 inches with the 12 inch accuracy standard proposed in Section 18.8(b) and precisely how pipelines must be protected from inadvertent damage as proposed in Section 18(j)(6).

This draft also includes a provision proposed in the last version to require a new public education awareness program to promote the requirements of Chapter 18. As CenterPoint mentioned in its comments in the previous draft, this program will duplicate the current requirements contained in API RP1162 and required pursuant to federal pipeline safety rules. In addition, the Commission's proposed program would require effectiveness measurements every 2 years rather than the 4 years allowed in the federal rule.

CenterPoint submits that a more efficient way to pursue these issues is to use separate rulemakings preceded by technical conferences for each proposed program. This would allow the Commission to address all of the issues raised by these programs and thus develop more effective rules on these subjects. It also will expedite the process of completing the revisions to Chapter 18 by focusing the efforts of all parties concerned on revisions to the current procedures of the chapter.

## **II. Locatability Requirement.**

CenterPoint agrees that the procedures of Chapter 18 can be improved and supports the Commission's effort to revise them consistent with successful models in other states. However, the proposal of Section 18(j)(4) of a locatability program, in conjunction with other proposed changes, would impose an unworkable and technologically infeasible standard on underground pipeline operators. The term "locatable" is not defined in the draft regulation and so operators are left guessing as to the standard to which they will be held. Although other sections of the draft rules contain some hints as to the meaning of this standard, those references actually illustrate the difficulty the Commission will have in developing such a standard.

For example, the Commission includes in Section 18.8(j) that a locator shall not utilize only one method of locating (hand tools, maps or an electronic device) to determine the location of underground pipeline. However, many pipelines are buried deeper than the reach of a hand tool or the tone of an electronic device. They can be located only by maps. In contrast, large transmission lines can usually be located utilizing only an electronic device.

The 12-inch accuracy standard provided in Section 18.8(b) also introduces a difficult and contradictory standard. No other state damage prevention program contains such a requirement. Moreover, the Commission's tracer wire program contained in Section 18.1(j)(5) specifically allows tracer wire to be placed as much as 6 inches away from underground plastic line, thus essentially reducing the margin of error to 6 inches on at least one side of the corridor. This is an unworkable standard for pipeline operators, especially those in local distribution.

CenterPoint recommends that the Commission follow the models of Minnesota, Virginia and other states that expand the tolerance zone beyond the 18 inches currently provided and recognizes the current state of the technology on pipeline location. As previously mentioned, if the Commission wishes to review the state of the technology and improve the ability of operators to locate lines, it should be addressed in a separate proceeding and technical conference.

### **III. Revisions Supported by CenterPoint**

The January 17, 2014, proposal carries forward many of the changes proposed in the previous draft that were supported by CenterPoint. As mentioned in our previous comments, the adoption of Chapter 18 of the Commission's rules has significantly improved pipeline safety and damage prevention practices in the State of Texas and resulted in an increase in the number of excavators who call before they dig. In particular, CenterPoint congratulates the Commission on pursuing the following particular changes:

- Section 18.4(i) – Prohibition against unauthorized repairs – The draft includes a long overdue prohibition against excavators attempting to repair damaged lines. It is appropriate and necessary for the Commission to enforce such a prohibition as the designated pipeline safety authority for Texas. It also harmonizes the rules with the Texas One Call Law, which has long contained a prohibition against this practice.
- Section 18.3(h) – Limitation on ticket size – CenterPoint also supports the proposed limit on the geographic size of a locate ticket. This encourages excavators to phase their work so operators can timely mark their lines as the project progresses. However, as currently drafted, Section 18.3(a) would allow an excavator to simply break a project into a series of locate tickets and request marking of each at the same time, even if it did not plan to commence excavating within the 14 days required in the rule. In order to prevent this gaming of the system, CenterPoint suggests that the definition of the period of an excavation event contained in Section 18.10(c) be moved into the definitions section of Section 18.1 and the period stated in Section 18.3(a) run from the date of an excavation event as so defined.
- Section 18.3 (k) – Emergency Locates – CenterPoint supports the requirement that an excavator requesting an emergency locate must provide notice to the notification center before commencing excavation. CenterPoint requests the Commission consider adding a requirement that such an excavator only call when it has a crew on the site of the excavation. The State of Louisiana's one call law contains such a requirement and we believe this would prevent abuse of the right to call for an emergency locate.<sup>2</sup>

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<sup>2</sup> See Louisiana Revised Statutes Section 1749.15 at [www.laonecall.com](http://www.laonecall.com)

- Section 18.10(b) – Excavator duty to locate line – The Virginia damage prevention regulations require excavators to pot-hole around their excavation to locate the underground line before excavation. This section appears to move in that direction by requiring that once an excavator has determined by hand digging the location of an underground pipeline, it may continue excavation with reasonable care. CenterPoint suggests that this requirement be expressly stated in the section by including pot-holing in the section as a required practice.

#### **IV. Other Suggested Revisions to the Draft**

This draft includes a series of unnecessary duplications of existing pipeline safety rules that were also proposed in the previous draft. These include the following:

- Section 18.1(k) – This section requires each operator to follow the safety standards currently in Chapter 8 of the Commission’s regulations.
- Section 18.8(k) – Operator qualification training – this section requires locators to receive operator qualification training under the federal pipeline safety regulation, which is already a requirement.

CenterPoint believes these duplications should be removed to insure consistency in Commission enforcement of its pipeline safety regime.

CenterPoint also believes that 12-inch accuracy standard proposed in Section 18.8(b) would confuse both excavators and operators as to the extent of the appropriate tolerance zone for excavation. No other state provides for such a standard, probably because it suggests that the excavator could safely utilize mechanical equipment in the area of the tolerance zone between 12 and 18 inches from the marks. CenterPoint continues to believe that the current standard of 18 inches is sufficient and gives the Commission the power it needs to enforce marking accuracy. If the Commission believes it needs a more specific metric, we suggest that the Commission simply incorporate the 18 inch standard into Section 18.8(b).

This draft also contains the previously proposed requirement that locator advise an excavator about abandoned or customer-owned lines. As mentioned in our previous comments, the proposed standard of “discovers, becomes aware of, or has knowledge of,” an abandoned or customer line forces the locator to engage in speculation about whether such a line exists in the area, especially since the locator would have no ability to locate it.

Section 18.11(a) would require operators to report damage caused by their own crews and contractors and report all deaths and injuries relating to excavation damage, not simply those that constitute reportable incidents under the pipeline safety rules. CenterPoint believes this reporting is unnecessary and would make it more difficult for the Commission to accurately gauge the success of the third-party damage prevention program. It also includes at proposed Section 18.11(e) the previously proposed duty of an operator to notify an excavator that has damaged its lines of the excavator’s own duty to report the damage to the Commission.

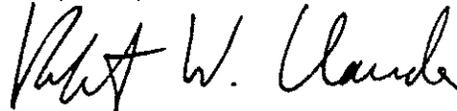
CenterPoint continues to believe this provision is unnecessary and unworkable since operators may not be aware of the identity of an excavator that damaged its lines within the 10 day window created in the proposed rule. If the Commission intends to pursue this requirement, we request that it run from the date the operator becomes aware of the identity and the address of the excavator, as suggested in our comments to the previous draft.

Finally, CenterPoint believes that Section 18.8(g)'s proposed requirement that an operator include a designation of the size and type of material of an underground pipeline at every other mark is unnecessarily excessive. At the same time, we recognize that the size and material of an underground pipeline can be useful information to an excavator and so suggest that such additional marking be required only when the material or size of a line changes in the area of the excavation.

## V. Conclusion

CenterPoint Energy commends the Commission for its work to improve the damage prevention system in Texas and its advocacy of continuous improvement of the Chapter 18 regulations. We look forward to participating in the workshop on February 10 and continuing to cooperate with the Commission in reducing pipeline damage in Texas.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Robert W. Claude". The signature is written in a cursive, flowing style.

Robert W. Claude