



March 11, 2014

Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
Austin, TX 78711-2967

**RE: DRAFT PROPOSED AMENDMENTS TO CHAPTER 18, UNDERGROUND PIPELINE DAMAGE PREVENTION**

Dear Rules Coordinator:

CPS Energy<sup>1</sup> submits its comments to the Railroad Commission of Texas (the Commission) regarding the Commission's proposed changes to Chapter 18, Underground Pipeline Damage Prevention. The deadline for submission of comments is noon on March 14, 2014; CPS Energy timely submits its comments on March 14, 2014.

**I. COMMENTS ADDRESSING SPECIFIC CHANGES**

**A. SUBSECTION 18.1(g)**

CPS Energy requests the Commission consider the removal of proposed Subsection 18.1(g) which requires that each operator shall review and update "Programs or procedures required for pipelines operators by this chapter...at intervals not exceeding 15 months, but at least once each calendar year." This section refers to

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<sup>1</sup> CPS Energy™ is the trade name of the City Public Service of San Antonio, acting by and through the City Public Service Board.

the plans and procedures required in Subsections 18.1 (j) & (k) and is a duplication of the current federal and state rules regarding existing procedures for Public Awareness under API 1162.

*B. SUBSECTION 18.1(i)*

CPS Energy request the Commission consider the removal of proposed Subsection 18.1 (i) which requires that each operator shall "retain records of abandoned underground pipelines." CPS Energy does not believe this should be included with existing locate record retention requirements.

*C. SUBSECTION 18.1(j)*

CPS Energy requests the Commission consider the removal of proposed Subsection 18.1(j)(2) which requires that each operator shall "develop and implement a comprehensive, written continuing public education and awareness program that incorporates and complies with the requirements of this chapter...". This section is a duplication of the current federal and state rules regarding a written procedure for Public Awareness under API 1162. This would constitute having two separate public awareness plans for each utility.

CPS Energy request that the Commission consider the removal of proposed Subsection 18.1 (j) (3) which requires the each operator shall "prepare and follow written procedures that implement a program for making all underground pipeline facilities locatable." This section does not belong in this chapter and should be addressed in our existing damage prevention program.

CPS Energy request that the Commission consider the removal of proposed Subsection 18.1 (j) (4) which requires the each operator shall "prepare and follow written procedures that implement a program specifying that all plastic pipe must

have an electrically conducting wire or other means of locating the pipe while it is underground.” This requirement is already addressed in the CPS Energy Operations and Maintenance Plan and is already required in Title 49 Code of Federal Regulations Part 192.321.

CPS Energy request that the Commission consider the removal of proposed Subsection 18.1 (j) (5) which requires the each operator shall “prepare and follow written procedures that implement a program for the prevention of cross bore type intersections through underground structures...during new pipeline construction installation...” CPS Energy believes this should be included in a separate damage prevention program.

CPS Energy request that the Commission consider the removal of proposed Subsection 18.1 (j) (6) which requires the each operator shall “prepare and follow written procedures that implement a program to minimize the risks associated with directional drilling and other trenchless technology operations in proximity to underground pipelines.” CPS Energy believes this should also be included in a separate damage prevention program. Also, the section that requires that each operator shall “ensure that both company and contractor personnel are following safe practices” should be removed. CPS Energy cannot be responsible for the safe practices of 3<sup>rd</sup> party contractors or excavators. CPS Energy will continue to encourage and promote safe practices of both company and contractor personnel through heightened awareness and industry best practices.

*D. SUBSECTION 18.1(k)*

CPS Energy requests the Commission consider the removal of proposed Subsection 18.1(k) subjects each operator to “the requirements of Chapter 8 of this

title (relating to Pipeline Safety Regulations) shall follow safety standards...by Title 49 Code of Federal Regulations Part 191, 192, 193, and 195...". This requirement is already addressed in these federal codes and it is included in the CPS Energy Operations and Maintenance Plan.

*E. SUBSECTION 18.3(e)*

Proposed Subsection 18.3(k) states:

An excavator that requests the location of underground pipelines in an emergency as defined in §18.2(6) of this title, relating to Definitions, through a notification center should attempt to provide notice of at least two hours before beginning excavation, but should provide notice before beginning excavation.

This statement contradicts the new emergency requirement in Subsection 18.5(e) of no less than four hours for operators to respond to emergency locate notices. In addition, this new four-hour requirement is dramatically reduced from the current 48-hour requirement. CPS Energy asks the Commission to resolve the conflict.

CPS Energy also requests the Commission clarify whether these changes mean that Texas Utilities Code Section 251.157, relating to Duty Of Operator To Person Excavating, no longer applies to emergency locate tickets. Section 251.157 states:

(a) Each Class A underground facility operator contacted by the notification system shall mark the approximate location of its underground facilities at or near the site of the proposed excavation if the operator believes that marking the location is necessary. The operator shall mark the location not later than:

(1) the 48th hour after the time the excavator gives to the notification system notice of intent to excavate, excluding Saturdays, Sundays, and legal holidays;

(2) 11:59 a.m. on the Tuesday following a Saturday notification unless the intervening Monday is a holiday;

(3) 11:59 a.m. on the Wednesday following a Saturday notification if the intervening Monday is a holiday; or

(4) a time agreed to by the operator and the excavator.

(b) An operator shall refer to the American Public Works Association color coding standards when marking.

(c) An excavator who has fully complied with this chapter may not be liable for damage to an underground facility that was not marked in accordance with this chapter.

(d) Not later than the 48th hour after the time the excavator gives to the notification center notice of intent to excavate, an operator contacted by the notification center shall notify the excavator of the operator's plans to not mark the proximate location of an underground facility at or near the site of the proposed excavation. The operator must provide the notification by e-mail or facsimile or by another verifiable electronic method approved by the board.

*F. SUBSECTION 18.6(b)*

CPS Energy asks the Commission to make a correction to Subsection 18.6(b), which states:

Markings **are** [~~shall be~~] valid for an excavation site [~~for 14 days~~] from the time a positive response is given **until the expiration date of the locate ticket**, unless the markings were placed in response to an emergency and the emergency condition has ceased to exist. If a line locate ticket has been refreshed pursuant to §18.3(e) of this title, relating to Excavator Notice to Notification Center, then the operator shall **verify the pipeline location and** either ensure that **the** markings are still **accurate and** visible [~~and valid~~] or [~~shall~~] re-mark.

The referenced Subsection 18.3(e) addresses the requirement that an excavator call in an emergency locate ticket. This should be changed to Subsection 18.3(h) as the letter referencing changed with the Commission's other proposed revisions.

G. *SUBSECTION 18.8(b)*

The Commission proposes the following revisions to Subsection 18.8(b):

Locators shall mark the approximate center line of an underground pipeline. **Markings of approximate pipeline locations shall be:**

- (1) **within the body of the pipeline on a horizontal plane for pipelines greater than six inches in nominal diameter; or**
- (2) **within 12 inches of the actual pipeline outside edge on a horizontal plane for pipelines six inches or less in nominal diameter.**

This proposed language introduces marking accuracy into Chapter 18 Rules where the 18-inch tolerance zone had been historically utilized as the industry best practice for marking accuracy. According to these parameters, an 8-inch pipe would require the markings to be located within the body of the pipe, but for a 4-inch pipe locators could use 12 inches from the outside edge. These parameters give a marking area of about 28 inches for 4-inch pipe but as little as eight inches if the pipe was 8-inch nominal diameter. CPS Energy asks the Commission to consider whether the 12 inches of the actual pipeline outside edge on a horizontal plane requirement can be incorporated for all pipe sizes. This entire section, however, leads to confusion with the Tolerance Zone definition in Subsection 18.2(27). CPS Energy urges that the Commission consider using the 18-inch tolerance zone as a more consistent guideline for marking accuracy.

H. *SUBSECTION 18.8(c)*

Proposed Subsection 18.8(c) raises a question for CPS Energy. These subsections state:

- (c) If, in the process of **locating and** marking an underground pipeline, a locator discovers, **becomes aware of, or has knowledge of** a customer-owned underground pipeline, the locator shall make a

reasonable effort to advise the excavator of the presence of the customer-owned underground pipeline.

**If, in the process of locating and marking an underground pipeline, a locator discovers, becomes aware of, or has knowledge of an abandoned underground pipeline, the locator shall make a reasonable effort to advise the excavator of the presence of the abandoned underground pipeline.**

CPS Energy requests the Commission include in Subsection 18.8(c) that the operator will not be held liable for any damages incurred to any customer-owned underground pipeline by the excavator. CPS Energy also requests that Subsection 18.8(c) be removed altogether, as abandoned underground pipelines do not fall under Chapter 18 guidelines nor under any operator's jurisdiction.

*I. SUBSECTION 18.8(k)*

CPS Energy requests the Commission consider the removal of proposed Subsection 18.8(k) which requires that "Each locator for the operator subject to the requirements of Chapter 8 of this title (relating to Pipeline Safety Regulations) shall be trained to the operator qualification..." This section is a duplication of the current federal and state rules regarding existing Operator Qualification program Title 49, Code of Federal Regulations, Part 192 or 195.

*J. SUBSECTION 18.10(c)*

CPS Energy request that Subsection 18.10(c) definition of excavation event be moved to definition section in Subsection 18.2 and also be mentioned in Subsection 18.3 (a) since it references excavation commencement.

*K. SUBSECTION 18.11(a)*

*CPS Energy requests a revision to the Subsection 18.11(a), which states:*

**Each operator shall report to the Commission all damage to the operator's pipelines caused by an excavator, including first party damage, second party damage, and third party damage.**

The inclusion of first and second party damages would require the operator to submit multiple reports regarding each internally caused damage to facilities. This new required information would create more confusion in filing rather than reach the true goal of third party damage prevention. The general intent of Chapter 18 is to educate third party excavators in damage prevention. The operators should have a thorough knowledge of safe excavation practices in their own utility service areas and should not have to report internal damages.

*L. SUBSECTION 18.11(e)*

CPS Energy requests a revision to the proposed SECOND<sup>2</sup> Subsection 18.11(e), which states:

**Each operator of an underground pipeline shall give written notice of the TDRF reporting requirements of this chapter to the excavator causing damage to its pipelines within 10 days of the damage incident or of the operator's actual knowledge of the damage incident.**

There may be instances where the operator may not know who caused the damage or that the identification of the excavator may be unattainable. CPS Energy suggests that the verbiage be changed to "shall attempt to give written notice..."

*M. SUBSECTION 18.11(g)*

CPS Energy requests the Commission consider the removal of proposed Subsection 18.11(g) which requires that "Each operator subject of an underground pipeline that experiences an extraordinary circumstance...shall notify the Commission, each one-call notification center operating in Texas, and each excavator that has a

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<sup>2</sup> The Commission intends to retain the first subsection (b), and the second subsection (b) and following subsections require appropriate corrections to their subsection identification.

pending locate request..." This section is a duplication of the requirements stated in CH 251.158.

*N. SUBSECTION 18.11(f)*

CPS Energy requests a revision to proposed Subsection 18.11(f), which states:

**If damage to a pipeline from excavation activity causes the release of any flammable, toxic, or corrosive gas or hazardous liquid from the pipeline that may endanger life of cause serious bodily harm or damage to property or the environment, the excavator shall immediately report the release to appropriate emergency response authorities by calling 911. Upon calling the 911 emergency telephone number, the excavator may exercise discretion as to whether to request emergency response personnel be dispatched to the excavation damage site.**

CPS Energy's experience is that most service line damages are relatively minor and do not require that 911 be dispatched to the site. Moreover, the excavator will call 911 if there is an ignition or if the release of gas is significant and may require evacuations nearby. CPS Energy, therefore, requests this requirement be changed to allow the excavator to exercise discretion before even making the call to the 911 dispatcher.

*O. SUBSECTION 18.11(h)*

CPS Energy recommends that the requirements of proposed Subsection 18.11(h) concerning the required information gather on damage investigations be limited to the required information on the TDRF online system.

## **II. CONCLUSION**

CPS Energy appreciates the opportunity to provide its comments relating to the proposed revisions to Chapter 18. If you have any questions regarding CPS Energy's comments, please call Michael Fuentes at 210-353-2336.

Sincerely,



Michael R. Fuentes  
Manager Gas Standards & Compliance  
Gas Delivery