

December 20, 2019

MAINE PUBLIC UTILITIES COMMISSION
Gas Utility Meter Performance, Accuracy,
Testing, and Related Standards Rulemaking
(Chapter 440)

ORDER ADOPTING RULE
AND FACTUAL AND POLICY
BASIS

BARTLETT, Chair; WILLIAMSON and DAVIS, Commissioners

I. SUMMARY

Through this Order, the Commission adopts Chapter 440, Gas Utility Meter Performance, Accuracy, Testing and Related Standards. This rule establishes meter performance, accuracy and testing standards for gas utilities and establishes protocols for converting metered usage to Therms for the purpose of billing customers.

II. BACKGROUND

A. Notice of Inquiry

On December 10, 2018, the Commission issued a Notice of Inquiry seeking information and comments from LDCs regarding meter accuracy and testing standards, practices and protocols for Maine's LDCs. *Maine Public Utilities Commission, Inquiry into Meter Testing and Standards of Local Distribution Companies (LDCs)*, Docket No. 2018-00331, Notice of Inquiry (Dec. 10, 2018).

The purpose of the Inquiry in Docket No. 2018-00331 was to gather information about and examine (1) the current standards, protocols and practices of Maine's LDCs regarding meter accuracy and testing; (2) the current practices of Maine LDCs with respect to gas heat content measurement and ccf-to-therm conversion methodologies for customer billing purposes; and (3) industry "best practices," recommendations, guidance, codes, or other available information related to these issues. The information gathered in the Inquiry would be used to develop a rule addressing meter accuracy and standards for gas utilities. While the Commission has rules addressing meter accuracy and testing standards for electric transmission and distribution (T&D) utilities,¹ there was no comparable rule for gas utilities.

¹ Chapter 320 of the Commission's rules addresses T&D utility service standards. *Maine Public Utilities Commission, Electric Transmission and Distribution Utility Service Standards Rulemaking (Chapter 320)*, Docket No. 2018-00311, Order Adopting Final Rule and Statement of Factual and Policy Basis (June 7, 2019).

Maine Natural Gas (MNG), Bangor Natural Gas Company (BNG), Summit Natural Gas of Maine (Summit), and Northern Utilities, Inc. d/b/a Unitil (Northern) all provided comments, participated in a technical conference, and responded to several data requests in the Inquiry docket.

B. Rulemaking

On July 16, 2019, the Commission issued its Notice of Rulemaking (NOR) in this docket. Through the NOR, the Commission initiated a proceeding to consider a new rule, Chapter 440, which would establish meter performance, accuracy and testing standards for gas utilities and establish protocols for converting metered usage to Therms for the purpose of billing customers.

The NOR set a comment deadline of August 24, 2019. A public hearing was held on August 14, 2019. Initial comments and supplemental comments were filed by Northern, Summit, BNG and MNG.

III. **ADOPTED RULE PROVISIONS**

A. Scope and Purpose (Section 1)

Section 1 of the rule specifies that the Chapter establishes meter performance, accuracy, testing, and related standards for gas utilities.

B. Definitions (Section 2)

Section 2 of the rule contains definitions of terms used throughout the rule. The definitions are primarily standard industry definitions of terms or are otherwise self-explanatory. Based on comments on the proposed rule filed by the gas utilities, the definition of "billing conversion factor" has been revised. Additionally, the term "CCF" has been removed from the definitions, as it is not used in the rule.

C. Metering Performance and Accuracy (Section 3)

Section 3 of the rule addresses meter performance and accuracy. Section 3(A) provides that meters shall be owned and maintained by the gas utility, except where it is impracticable to do so. This section requires that gas utilities include in their Terms and Conditions (T&Cs) the factors or conditions that would render it impracticable to maintain a customer meter.

Section 3(A) also requires gas utilities to keep a complete set of records of its meters. Based on comments by the gas utilities, which stated that keeping records of its meters by customer account could be problematic as there could be multiple customer accounts attached to a meter as customers move, the adopted rule states that records may also be kept by premise ID, rather than customer account.

Section 3(A) states that gas utilities shall keep records of meter tests and meter test results. While the proposed rule stated that gas utilities must include records of all repairs and upgrades, this section has been revised to say they must keep records of repairs and upgrades that affect accuracy. This change is based on gas utility comments stating that it would be impractical to keep records of minor upgrades and repairs that did not relate to meter accuracy.

Section 3(A) requires that all records be kept for a period of ten years and that all such records shall be made available to the Commission upon request. While the gas utilities had recommended a shorter time period for record retention, the adopted rule has kept the ten-year time period as in the proposed rule. The ten-year period is consistent with the Commission's Chapter 320 rule for T&D utilities.

In comments, the gas utilities requested that the Commission make clear that the records required by Section 3(A) apply on prospective basis. As this is a new rule, the requirements within it shall apply on a prospective basis, beginning at the effective date of the rule.

Section 3(B) requires that all meters shall comply with applicable codes, standards and requirements related to performance and accuracy. The gas utilities stated in their comments that new diaphragm and rotary meters are generally tested based on the American National Standards Institute (ANSI) standards. However, turbine meters are also tested using American Gas Association (AGA) standards. The ANSI standards provide that diaphragm and rotary meters are within tolerance if the meter is measured within plus or minus 2% of 100% accuracy. The AGA Report #7 requires a new turbine meter to be within plus or minus 1% of 100% accuracy.

The adopted rule takes into consideration that different standards apply to different meters. Rather than identify specific standards, the rule requires that utilities identify the applicable codes and standards for each meter type in their T&Cs, along with the process by which the gas utilities will ensure and document compliance with the codes and standards.

The adopted rule also requires that meters not in compliance shall be removed from service within a reasonable period of time, which shall be specified in the gas utility's T&Cs.

Additionally, because standards are subject to change and updates, the rule requires that the applicable standards shall generally be the most recent version of such standards. However, the rule also states that the version of the standards that applies to a specific metering device will be the version in effect at the time the device is initially put into service.

This section notes that if, upon testing, a customer's meter is not registering within established parameters, the gas utility shall adjust the customer's bills in accordance with Chapter 815 of the Commission's rules.

Section 3(C) addresses testing protocols, including the removal and testing of meters that do not meet applicable performance and accuracy standards, or customer-requested tests.

Section 3(C)(1) provides that a gas utility's testing protocols shall include (a) testing and verification by the meter manufacturer for each new meter before it is placed in service; (b) testing by the gas utility, or a third party of the gas utility, of any existing meters before redeployment or reuse of the meter; (c) testing upon request of the customer; and (d) periodic testing in accordance with the gas utility's T&Cs. While some of the gas utilities state that there does not seem to be need for periodic testing, the rule nevertheless requires that gas utilities establish a periodic testing program. However, the rule provides the gas utilities flexibility by not specifying time periods and allowing each gas utility to develop their own periodic testing program through their T&Cs.

Section 3(C)(2) of the rule addresses customer requested tests. This section requires that a gas utility test a customer's meter within fifteen days from the time the request is made. This section also allows a gas utility to require a deposit of a fee if a customer's meter has already been tested at no charge during the preceding twelve months. While MNG requested that the Commission state that the deposit may include all costs incurred by a utility in testing the meter, including testing the meter and travel time for employees to transport the meter, the adopted rule does not include the requested language. Rather, the rule provides that the deposit amount be identified in the utility's T&Cs, which are subject to Commission approval.

While the proposed rule included language allowing a customer to witness the meter testing, as is allowed for electric T&D utility customers, this language has been removed in the adopted rule. The gas utilities noted that many meters are often tested by third-parties out of state, making it impractical for customers to attend the testing.

Section 3(C)(2) of the rule provides that within thirty days of the completion of a customer-requested meter test, the gas utility shall provide a written report to the customer. While the proposed rule required that the gas utility include in the report a description of any billing adjustments indicated by the test results, Northern stated that this information is unlikely to be available at the time of the written report. The rule has been amended to state that billing adjustments shall be included in the report if available at that time. If not available at that time, the gas utility shall have thirty days from the date of the test report to provide the billing adjustment information.

The rule also requires that the written report provide information regarding the customer's right to contact the Commission's Consumer Assistance Division (CASD) to dispute any aspect of the test, including billing adjustments.

Section 3(D) addresses billing conversion factors and requires that utilities have systems and protocols in place to verify the accuracy of its bill conversion factors, and provide a report documenting the accuracy of these factors in cost of gas proceedings.

Accordingly, the Commission

O R D E R S

1. That the attached rule, Chapter 440, Gas Utility Meter Performance, Accuracy, Testing and Related Standards is hereby adopted;
2. That the Administrative Director shall file the rule and related materials with the Secretary of State;
3. That the Administrative Director shall notify the following of the adoption of the attached rule:
 - a. all gas utilities;
 - b. all persons who have filed with the Commission within the past year a written request for notice of rulemakings;
 - c. All persons who commented in this rulemaking, Docket No. 2019-00138; and
 - d. The Office of the Public Advocate.
4. That the Administrative Director shall provide copies of this Order and attached rule to the Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine 04333-0115.

Dated at Hallowell, Maine, this 20th day of December, 2019.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear,
Administrative Director

COMMISSIONERS VOTING FOR: Bartlett
 Williamson
 Davis

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.