

August 23, 2019

PENNSYLVANIA PUBLIC UTILITY COMMISSION
ATTN: SECRETARY ROSEMARY CHIAVETTA
400 North Street
Harrisburg, PA 17120

RE: Docket No. L-2019-3010267

Dear Secretary Chiavetta:

Recognizing that the Commission does not intend to limit the scope of comments, I submit Uwchlan Township Resolution 2017-25 for consideration. This submission, as well as other comments, are from me personally, not as a long-term member of the Consumer Advisory Council (CAC). However, the CAC in its reply may include my submission in its response.

This municipal resolution passed the 14th day of August, 2017 and was effective immediately. This document has been reviewed and discussed in whole and in part numerous times over the past two years within Council meetings and is part of the CAC record.

It is recognized that underground pipelines are an effective, safe, and efficient means of carrying hazardous materials. No one wants these products shipped through our communities by truck or rail. However, there needs to be a cap on the number of pipelines within an easement and a limitation on certain types of products carried through high density communities. Easements can be 30 to 40 feet wide and over 100 feet deep, and 50 or more pipelines can be stacked if there are no caps on the number.

Many states have such a limitation to protect communities from the increased hazard as well as the ongoing disruption of construction. Limitations on what can be carried by pipeline through high density communities also need to be established. Resolution 2017-25 provides direction and guidelines in these topics as well as many others.

One item not part of Resolution 2017-25 comes from a prominent municipal law firm in West Chester, Pennsylvania. They suggest that all pipe must have an assigned service life based on current engineering principles and specifications; that each pipeline or section of pipeline based on material used be assigned a date at which its service life terminates.

All pipe made of wood, terra cotta, copper, brass, bronze, lead, aluminum, steel, alloys, cement, etc., due to deterioration, corrosion, electrolysis, fatigue, etc. must be assigned an end-of-use date. This is especially important as direction of flow may change from original designs and more hazardous materials may be carried than was originally designed for. And pressures may be increased over time.

Lastly – and this would seem to be a common-sense matter – no smoking should ever be permitted within the easement during construction at any time.

For further clarification or questions, please call or email me.

Joseph E. Toner III

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CC: Patrick M. Cicero, Chairman CAC
Lori Shumberger

Attachment

**UWCHLAN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
RESOLUTION NO. 2017 - 25**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF UWCHLAN TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA REGARDING LAWS, ORDINANCES,
REGULATIONS, POLICIES AND PROCEDURES FOR PUBLIC UTILITY PROJECTS
AND SPECIFICALLY INTERSTATE AND INTRASTATE PIPELINE PROJECTS**

WHEREAS, projects involving the installation, maintenance and repair of public utilities, and specifically interstate and intrastate pipeline projects, have a significant impact on the health, safety and welfare of the citizens of the Commonwealth of Pennsylvania, including residents, visitors and businesses of Uwchlan Township; and

WHEREAS, in order to mitigate the impact of such projects and reduce the risk to life and property it is important for federal, state and local government to enact, implement and strictly enforce laws and regulations applicable to such projects; and

WHEREAS, because utility providers are subject to the jurisdiction of various federal, state and local entities, there are often significant regulatory gaps which result in installation, maintenance and repair activities that are not properly supervised and overseen in order to protect the public to the greatest extent feasible; and WHEREAS, Uwchlan Township believes it is important to establish a paradigm for the regulation and control of such projects by federal, state and local governments.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of Uwchlan Township, Chester County, Commonwealth of Pennsylvania as follows:

1. Pennsylvania local governments should review and update existing ordinances and regulations and consider the enactment of new ordinances and regulations to assure that the planning, construction and operation of public utility projects has the least negative impact possible on residents and businesses, including ordinances, regulations, policies and procedures on the following subjects:
 - a. Ordinances to regulate the permitted hours of construction activity, noise generated from the project and conduct of construction personnel. Hours should be set to ensure that the municipality's residents can peacefully enjoy their properties and business owners can operate without unreasonable interference. Noise ordinances should regulate the level of permissible sound leaving the construction site. Noise and construction activity, including the idling or movement of vehicles of any type, should be prohibited during the hours construction activity is prohibited. Construction

personnel should be prohibited from engaging in boisterous conduct, using profanity, smoking and consuming alcohol on the construction site, private property, adjacent roads and streets and other public spaces. Contractors shall be responsible for placement and maintenance of portable toilets of sufficient number to adequately serve construction personnel. During periods of construction activity disruptive to the peaceful enjoyment of nearby residential properties, the contractor shall be required to secure temporary living accommodations for those affected.

- b. Ordinances regulating the use, occupancy and opening of municipal streets and rights-of-way. Utilities should be required to post financial security (e.g., bonding) to guarantee repair of road damage caused by the movement of trucks, equipment and materials. Safe pedestrian routes across pipeline easements and in the vicinity of pipeline construction must be maintained at all times. Open cutting of streets should be prohibited unless no practical alternative is feasible. Open cutting and directional drilling should be prohibited for a period of 5 years from the date of new street construction, paving or resurfacing; and for a period of 20 years from the date of completion of any project by a utility of the same category (e.g., electric, gas, water, pipeline).
- c. Ordinances for the protection of the real and personal property of municipal residents and businesses, including structural analysis of the condition of building foundations, swimming pools and other structures within 500 feet of the excavation or drilling area; analysis of the functionality and water yield of water wells within 500 feet of the excavation area; and other studies determined to be necessary to protect the value of real and personal property. All studies and analysis shall be completed by qualified professionals and prior to commencement of construction; the original report shall be provided to the property owner, copy to the municipality. Utilities should be responsible to repair any damage caused by construction activities. Utilities should be responsible for the regular maintenance of easement areas not disturbed by construction but not accessible by the legal owner for maintenance purposes during construction.
- d. Ordinances to regulate lighting, vibrations and signage. Lighting should be limited to that necessary for safety purposes. Since construction activity should not be conducted during hours of minimal light or darkness, the necessity for lighting should be

minimal. Signage should be limited to that necessary for safety purposes; advertising and similar signage should be prohibited. Lighting of signage should be prohibited except when necessary to illuminate safety signs during hours of darkness. In such cases, lighting should be limited in intensity to the minimum necessary and include cut-off shields to prevent spillage and glare on adjacent properties. Vibrations emitted from construction activity and equipment should be controlled and limited by objective measurement.

- e. Ordinances to regulate access to the construction site during construction activity and overnight. Ordinances should require that the construction site be entirely enclosed with non-climbable fence. Access points to public roadways should be gated and secured with locks during times of construction inactivity. Contractors may be required to engage 24-hour security personnel to assure construction site security and safety. Contractors should coordinate with police departments with jurisdiction over the construction sites.
- f. Ordinances to require contractors and utility companies to provide to the Township telephone numbers and electronic mail addresses which are monitored by the contractor and utility at all times for the purposes of routine communication, complaints and emergency response. The Township shall keep a written record of all complaints reported to the Township office. The contractors and utility companies shall designate an individual to receive and handle problems; the utility companies and contractors shall respond to and resolve non-emergency complaints within 24-hours of the time of notification by the Township. Emergency notifications, such as security breaches and leaks, shall be responded to immediately. Response to complaints should be coordinated with municipal administrative staff and the police.
- g. The municipality should appoint an employee or contractor to act as a liaison with the contractor and oversee compliance and enforcement of Township ordinances and regulations. Ordinances should require payment by the utilities of all costs and expenses incurred by the municipality as a result of the utility construction, including engineering, legal and administrative fees.
- h. Municipal zoning and subdivision and land development ordinances and municipal comprehensive plans should be in effect that regulate

above-ground utility structures; require compliance with storm water management laws and regulations; require protection of historic structures and places; require restoration and repair of disturbed areas, streets and other public places; require replacement of landscaping and trees; prohibit the construction of new buildings and structures within 1000 feet of a utility easement used for the storage or conveyance of hazardous, highly volatile liquids or gases under pressure; prohibit the construction of new or replacement utility facilities used for the storage or conveyance of hazardous, highly volatile liquids or gases under pressure within 1000 feet of residential structures, schools or places of worship; and regulate the minimum and maximum depth of utility structures to lessen the impact on water aquifers, wells and the structural integrity of buildings and foundations. All new utility installations should require application to and approval by the municipal governing body by conditional use or other public process.

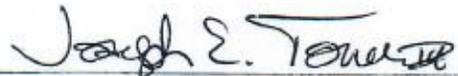
- i. Municipal officials should ensure that all necessary emergency responders and facilities are in place in the event of an emergency resulting from utility construction, maintenance and use. This should include notification protocols (e.g., ReadyChesCo.org; emergency sirens and gas leak monitoring systems; public loudspeakers; door-to-door notification; ready-notify lists); evacuation plans including specific plans for the hearing impaired, elderly, disabled; decontamination facilities and procedures; triage protocols; transportation including buses, ambulances and aircraft; shelters providing food, sleeping facilities, health care, pharmacy and pet care; long-term disaster relief; blood banks; containment of spills and releases; mutual aid agreements; utility shut-offs and emergency declaration procedures.
- j. Municipal officials should encourage state legislative bodies to enact laws and regulations for the protection of the value of real property in the municipality and tax revenues. Utilities should be responsible for decreases in the fair market value of properties resulting from the location of easements and utility facilities, and construction activity. Loss of market value should be substantiated by a real estate appraisal and confirmed by a determination of assessed value by the county board of assessment. Utilities should be responsible to make payments to taxing authorities in lieu of taxes to fully compensate the taxing authorities for tax revenue losses resulting from assessment reductions for a period of 5 tax years from the effective

date of the reassessment.

- k. Municipal officials should encourage legislative bodies and regulatory agencies of the United States and the Commonwealth of Pennsylvania, including the Federal Regulatory Energy Commission and the Pennsylvania Public Utility Commission, to enact laws and regulations with specific application to utilities and companies that extract, store, transport and load/unload highly volatile and heavier-than-air gases and liquids including a 50% limitation on the number and dimensions of new pipelines (based on a maximum total diameter of one or more existing pipelines) and other structures in densely-populated areas; prohibition on heavier-than-air product pipelines within 2,500 feet of schools, places of worship, shopping centers, parks and playgrounds and densely-populated areas; and requirements for the installation and the continual operation and monitoring by qualified personnel of properly-designed devices that will detect unintended gas and liquid releases and systems that will provide public warning in the event of such unintended releases.
2. A copy of this Resolution shall be distributed to local, state and federal government officials and agencies, legislators and organizations as directed by the Board of Supervisors.
3. This Resolution is effective immediately.

RESOLVED and ADOPTED at a duly advertised public meeting on this 14th day of August 2017.

BOARD OF SUPERVISORS UWCHLAN
TOWNSHIP

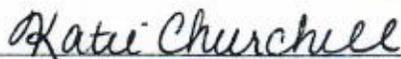


Joseph E. Toner, III, Chairman



Milton H. Bozarth, Vice Chairman

ATTEST:



Katie Churchill, Secretary



Patricia D. Gaines, Member