

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of Ohio	)	
Adm. Code Chapter 4901:1-16 Regarding Gas	)	Case No. 16-1712-GA-ORD
Pipeline Safety.	)	

**COMMENTS OF  
THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO**

**I. INTRODUCTION**

In accordance with the Commission’s August 12, 2016 Entry in this case, The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) files its initial comments to the emergency amendments to Ohio Adm. Code Chapter 4901:1-16.

DEO appreciates the opportunity to file these comments, and it also appreciates the Staff’s willingness to discuss comments and concerns during the August 25 workshop.

**II. COMMENTS**

The revisions adopted by the Commission on an emergency basis would reduce the time period for reporting incidents and service failures from two hours down to 30 minutes. *See* Ohio Adm. Code 4901:1-16-05(A)(1) & (2).

**A. The reduced notice time could create an incentive to “over-report.”**

The Company’s overarching concern is that 30 minutes provides very little time for utilities to investigate and assess any given situation and to determine whether it constitutes a reportable incident. Most situations involving a release of natural gas do not constitute a reportable incident. And it goes without saying that 30 minutes may not be enough time to determine whether a service failure will last “two hours or more.” *Id.*

While DEO greatly appreciates the exception for when “notification within [30 minutes] is impracticable under the circumstances,” the default position of the rule remains 30 minutes.

DEO takes compliance with Commission rules very seriously, and with less time to gather facts on incidents and service failures, the new rule could create a significant incentive to “over-report” events that may not ultimately meet the criteria for reporting.

This incentive to over-report, in turn, could result in other issues. To the extent a notice spurs responses by other agencies, it could result in the waste of other resources. The accelerated time frame could also increase the administrative burden on both gas operators and enforcement agencies who will likely need to spend time rescinding previously reported incidents later found not to be reportable. Most concerning, all this could reduce the effectiveness of notices—basically by creating a boy-who-cries-wolf problem.

**B. It is not clear that the 30-minute requirement is necessary under state or federal law.**

DEO will do its best to provide effective notice within the newly reduced windows, but it does believe that the Commission should consider whether such an aggressive time frame is necessary.

The 30-minute timeline goes beyond the U.S. Congress’s mandate that requires notice within one hour of “confirmed discovery of an accident or incident.” *See* Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, § 9. Not only does this federal law permit an additional 30 minutes over and above the new Ohio requirement, but the hour starts following “confirmed discovery.” This makes clear that the duty to report only begins once the occurrence of an incident has been confirmed. It is not clear to DEO that Ohio’s requirements should exceed federal standards.

It is also not clear to DEO that a 30-minute notice period is required under the executive order adopted by Governor Kasich. *See* Exec. Order 2016-04K. That order clearly had the effect of adopting a 30-minute deadline proposed in the rules of the Ohio Department of Natural

Resources. But while the executive order does require the Commission to amend its rules, it does not on its face specifically instruct the Commission to adopt a 30-minute notice requirement.

In short, it is not clear to DEO that the 30-minute timeline is required in these circumstances.

**C. The rule should clarify what constitutes “discovery” of an incident to avoid these issues.**

One way to address the problems potentially caused by an accelerated time frame would be to provide a definition of “discovery” that makes plain when the 30 minutes starts. If “discovery” refers to the first notice of facts that could potentially constitute an incident, this could result in significant over-reporting.

One revision that would address DEO’s concerns would be to adopt the term “confirmed discovery” as contained in Section 9 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. As noted, DEO also strongly supports the provision of the new rule that gives an exception if “notification . . . is impracticable under the circumstances.” To further mitigate the concerns identified above, the Commission should consider clarifying that “impracticable under the circumstances” specifically includes “when the operator is not reasonably able to confirm within that time that an incident has occurred.”

### **III. CONCLUSION**

For the foregoing reasons, DEO respectfully requests that the Commission act in accordance with its comments.

Dated: September 2, 2016

Respectfully submitted,

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Summary: Comments electronically filed by Ms. Rebekah J. Glover on behalf of The East Ohio Gas Company d/b/a Dominion East Ohio