

For these reasons and purposes, DEO respectfully requests the Commission grant its application for rehearing.

II. ARGUMENT

On January 18, 2006, the Commission adopted the Minimum Gas Service Standards, including § 4901:1-13-05(A), which imposed the following requirement upon an LDC any time it turns on gas to a building:

Prior to initial operation or reestablishing residential or nonresidential gas service (including after an outage), the gas piping downstream of the meter shall be tested with a service drop installed for a gas appliance to determine that no leaks exist.

The Commission imposed this rule over the objection of numerous LDCs and home builders. *See, e.g.*, Letters from Eagle Creek Builders & Dominion Homes to PUCO, Case No. 05-602-GA-ORD (Feb. 22, 2006). Following the adoption of the rule, DEO requested a waiver from its requirements, a request unopposed by the Ohio Consumers' Counsel. *See* Motion to Intervene, Memo. in Support and Comments filed on behalf of OCC, Case No. 06-1452-GA-WVR, at 6 (Mar. 23, 2007). Nevertheless, the Commission did not grant the relief requested, although it did state that third-party verification of the testing would comply with the rule. Entry of May 24, 2007, at 6. It is from this entry that DEO seeks rehearing.

A. Because the Commission's concern for gas-line safety is already sufficiently addressed by Ohio law, it should grant DEO's requested waiver.

The Board of Building Standards is already charged with ensuring the safety of gas distribution lines, and there is no need for DEO to do the Board's job. The Commission understandably is concerned that "gas lines be tested." Gas-line testing, however, is already provided for under Ohio law, only not in Title 49 ("Public Utilities"). Rather, in Title 37 ("Health – Safety – Morals"), the legislature has created the Board of Building Standards and instructed it to "adopt rules governing the construction, alteration, and maintenance of

buildings,” which includes “the installation of equipment.” R.C. § 3781.10(A). The Board has adopted such rules, and those rules cover the installation and testing of natural gas lines.

1. Abundant procedural protections are already in place to ensure gas-line safety.

The Revised and Building Codes specifically address the situation that concerns the Commission—the testing of gas distribution piping. And a series of regulatory hurdles already confront the would-be gas-line installer in those jurisdictions under the supervision of a residential building department:

Before any construction may begin, approval is required. *See* R.C. § 3791.04(B) (“No owner shall proceed with the construction, erection, alteration, or equipment of any building until the plans or drawings, specifications, and data have been approved No plans or specifications shall be approved or inspection approval given unless the building represented would, if constructed, repaired, erected, or equipped, comply with Chapters 3781. and 3791. of the Revised Code and any rule made under those chapters.”); *see also, e.g.*, Ohio Admin. Code § 4101:8-1-05.1 (“Any owner or authorized agent who intends to construct . . . a residential building . . . shall first make application to the building official and obtain the required approval.”).

Before any connection may be made with DEO’s gas lines, approval is required. *Id.* § 4101:8-1-11.1 (“No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which an approval is required, until approved by the residential building official.”).

Before any gas equipment may be installed, approval is required. *Id.* § 4101:8-1-05.1 (Anyone “who intends to . . . erect, install, enlarge, alter, repair, remove, convert or replace

any . . . gas . . . equipment . . . shall first make application to the building official and obtain the required approval.”).

Before anyone may occupy a building, approval is required. *Id.* § 4101:8-1-10.1 (“No residential building or structure, in whole or in part, shall be used or occupied until the residential building official has issued an approval in the form of a certificate of occupancy.”).

Throughout the construction process, the builder is subject to continuing inspections to ensure that each aspect of the building is up to code. *See, e.g., id.* § 4101:1-1-09.3 (“The residential building official, upon notification, shall cause the inspections set forth in [in the rules] to be made by an appropriately certified inspector in accordance with the approved residential construction documents.”).

These authorities reveal that builders in areas under the supervision of certified building departments already face substantial safety regulations and requirements.

2. Substantive standards, equally rigorous as those promulgated by the Commission, already ensure gas-line safety.

Substantively, the Board has adopted the International Fuel Gas Code as the standard for the installation, inspection, and approval of gas lines. *See id.* § 4101:2-3-01.3 (“The design and installation of fuel gas [which includes natural gas, *id.* § 4101-2-2-02] distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be in accordance with the ‘International Fuel Gas Code.’”); *see also id.* § 4101:8-43-01.1 (“The standards listed or referenced in various sections of this document [including the International Fuel Gas Code, *see id.* § 4101:8-43-01.2] are applicable . . .”).

The International Fuel Gas Code (specifically § 406) and the Commission’s rule substantially mirror each other, as shown by the following chart:

Ohio Admin. Code § 4901:1-13-05(A)(3)	International Fuel Gas Code, § 406
A pressure test shall be conducted before initiation of new service.	Prior to acceptance and initial operation, all piping installations shall be inspected and pressure tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this code. § 406.1
The test shall be at no less than one and one-half times the proposed maximum working pressure, but not less than three PSIG.	The test pressure to be used shall be no less than 1 1/2 times the proposed maximum working pressure, but not less than 3 psig (20 kPa gauge), irrespective of design pressure. § 406.4.1
Consideration shall be given to accommodate the manufacturer's inlet pressure specifications for connected appliances.	"MANUFACTURER'S WARNING REGARDING PRESSURE TESTING OF GAS PIPING" Valve isolation. Where the piping system is connected to equipment or components designed for operating pressures equal to or greater than the test pressure, such equipment shall be isolated from the piping system by closing the individual equipment shutoff valve(s). § 406.3.4.
Appliances may need to be isolated during the pressure test to prevent damage.	Where the piping system is connected to equipment or components designed for operating pressures of less than the test pressure, such equipment or equipment components shall be isolated from the piping system by disconnecting them and capping the outlet(s). § 406.3.3.
The test duration shall be no less than one-half hour for each five hundred cubic feet of pipe volume or fraction thereof.	Test duration shall be not less than 1/2 hour for each 500 cubic feet (14 m3) of pipe volume or fraction thereof. § 406.4.2.
When testing a system having a volume less than ten feet or a system in a single-family dwelling, the test duration shall be a minimum of ten minutes.	When testing a system having a volume less than 10 cubic feet (0.28 m3) or a system in a single-family dwelling, the test duration shall be not less than 10 minutes. § 406.4.2.
The duration of the test shall not be required to exceed twenty-four hours.	The duration of the test shall not be required to exceed 24 hours. § 406.4.2.

3. Procedurally and substantively, gas-line safety is already covered.

The sum and substance of all this? The rule and corresponding compliance expense will often prove redundant. As far as gas-line safety is concerned, the regulator, the procedures, the inspectors, the substantive standards, and the enforcement mechanisms are already in place in the vast majority of DEO's service area. In these regions, one cannot commence construction, connect to a gas line, install equipment, or occupy a building without prior approval and without a determination that the distribution lines satisfy the same standards adopted by the Commission. The Commission did not write on a blank slate, but rather a crowded one, in adopting these rules.

And this complication produces little apparent benefit. The Commission's substantive standards, as discussed above, are not more rigorous than the Board's, so the Commission's rule will not appreciably increase safety throughout DEO's service area. Nor does DEO contribute any additional inspection expertise to the mix.

The rule will, however, substantially increase DEO's expenses, an increase that eventually will be paid by consumers in rates. And unnecessary expenses make for unnecessary rates. Also, by adding another duty to DEO, the Commission potentially exposes DEO to liability. Such burdens must sometimes be borne, but usually with a corresponding benefit. DEO respectfully urges the Commission to grant its unopposed waiver request.

If the Commission determined not to grant DEO's waiver request in its entirety, it should still grant waiver as to those segments of DEO's service territory supervised by residential building departments. As described above, no gap exists in such jurisdictions to be filled by the Commission's rules. And there is no need for DEO to serve as a supervisor of the Board of Building Standards, certified building departments, or residential building officials. DEO recognizes that areas without certified residential building departments present different issues.

If the Commission denied the requested waiver as to these areas, it should nevertheless grant rehearing to provide more time for DEO and Staff to determine how to address such situations.

B. In the alternative, DEO requests rehearing to allow it to discuss with Staff a detailed draft business process that would satisfy the Commission's safety concerns in a more cost-effective manner.

If the Commission decides not to grant DEO's waiver request, DEO alternatively seeks rehearing to enable it to discuss with Staff a detailed draft business process designed to satisfy the Commission's safety concerns while eliminating unnecessary and duplicative expenses. Given that the requirements of the Residential Building Code and Ohio Administrative Code § 4901:1-13-05(A)(3) are substantially the same, the opportunity exists to minimize the expense and administrative burden associated with gas-line testing for both DEO and builders. The Commission seemed to recognize as much when it allowed in the May 24 Entry that third-party verification could satisfy the rule. To make the most of this opportunity, DEO has put together the aforementioned plan.

This plan establishes procedures for gas-line testing associated with new construction, service-line reties, reestablishment of service after 30 days have elapsed, and reestablishment of service before 30 days have elapsed. For example, the proposed new-construction and service-line-rette procedures provide for pressure testing of the service line by an operator-qualified installer, receipt by DEO of both a service installation record and a houseline installation record documenting houseline pressure tests, and additional testing following the meter set, among other things. Each process anticipates various leakage scenarios and prescribes appropriate measures to ensure awareness of line status on the part of both DEO and others having business with the lines (e.g., customers or plumbers). The processes also provide alternative action steps depending on the level of access DEO has to the lines, again with safety as the paramount goal.

Granting rehearing and permitting this discussion will allow a smoother and more cost-effective transition to a testing regime that will continue to ensure the level of safety desired by the Commission.

III. CONCLUSION

For the reasons discussed above, DEO respectfully requests that the Commission grant further rehearing with respect to Rules 4901:1-13-05(A)(3) and grant the relief requested above.

Respectfully submitted,



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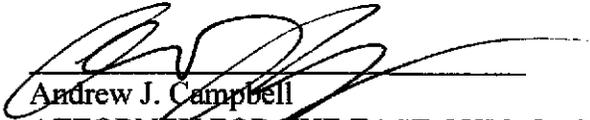
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Rehearing was mailed by ordinary U.S. mail to the following, this 22nd day of June, 2007.

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