BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901:1-13 of the Ohio Administrative Code	: : :	Case No. 09-326-GA-ORD

INITIAL COMMENTS OF
THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO AND
VECTREN ENERGY DELIVERY OF OHIO, INC.

Pursuant to the Commission's Entry of April 22, 2009, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") and Vectren Energy Delivery of Ohio, Inc. ("VEDO") hereby jointly file Initial Comments to Staff's proposed revisions to the Minimum Gas Service Standards contained in Ohio Administrative Code Chapter 4901:1-13 ("MGSS"). Unless otherwise noted, all references and citations to the MGSS are to the version attached to the April 22, 2009 Entry.

I. INTRODUCTION

DEO and VEDO commend Staff for their thoughtful consideration of proposed revisions to the MGSS. Staff has taken a light hand to the MGSS, for the most part recommending only minor changes to clean up existing language. By and large, Staff's recommendations are reasonable and should be adopted. As discussed below, however, there are a few proposed changes with which DEO and VEDO disagree. And in addition to Staff's recommendations, DEO and VEDO have a few recommendations of their own. DEO and VEDO are confident that the Commission will be able to harmonize the positions of various stakeholders to adopt practical, effective and common-sense revisions to the MGSS.

II. COMMENTS

A. Rule 4901:1-13-02(G)

Rule 4901:1-13-02(G) states that each natural gas company, in addition to the MGSS, is also subject to the Administrative Code provisions governing pipeline safety, establishment of credit, disconnection of service and provisions related to competitive retail natural gas suppliers (to the extent applicable to gas or natural gas companies). The current subsections (G)(1) through (G)(4) of the rule contain a brief description of, and citation to, these other Administrative Code provisions. Staff proposes to delete the descriptions, leaving only the citations. DEO and VEDO request that the final rules retain the descriptions. Employees who occasionally need to review the rules do not have the Administrative Code provisions listed in subsections (G)(1) through (G)(4) committed to memory. The descriptions are useful for quickly discerning what these provisions pertain to, without having to flip back and forth between Rule 4901:1-13-02(G) and the referenced Administrative Code provisions. DEO and VEDO agree, however, that the language, "to the extent applicable to gas or natural gas companies" is needed at the end of Rule 4901:1-13-02(G(4), as Staff has proposed.

B. Rule 4901:1-13-02(I)

In the "Purpose and Scope" section of the MGSS, Staff proposes to add the following provision:

> Each citation contained with this chapter that is made to a section of the United States code or a regulation in the code of federal regulations is intended, and shall serve, to incorporate by reference the particular version of the cited matter that was effective on [date].

Presumably, the placeholder for "date" will refer to the date of final approval of the revised MGSS.

The MGSS refer to federal regulations in two places. In the "Definitions" section, Rule 4901:1-13-01(W) proposes to define "TTY" as "text telephone yoke as defined in 47 C.F.R. 64.601, effective as of the date set forth in paragraph (I) of Rule 4901:1-13-02 of the Administrative Code." Rule 4901:1-13-05(3)(d) refers to the C.F.R. provisions applicable to service line testing. Staff proposes to add language to this rule requiring compliance with the version of 49 C.F.R. 192 "effective as of the date set forth in paragraph (I) of rule 4901:1-13-02 of the Administrative Code."

The Administrative Code should not restrict utilities to observe the version of federal regulations in effect at the time the Commission adopts revised MGSS. The Commission's rules should be flexible so that utilities may conform to federal law as the law changes. If federal law changes after the effective date of the new MGSS, the utilities will face the Hobson's choice of deciding which law to violate: the Commission's rules, or the federal regulations. For example, if the service line testing provisions contained in 49 C.F.R. 192 change in the future in any substantive way, natural gas companies will not be able to comply with both new federal regulations as mandated by federal law, and superseded federal regulations as mandated by the MGSS. Any future changes in the definition of "TTY" under 47 C.F.R. 64.601 could also create a conflict with federal regulations and the MGSS.

As noted in the Commission's Entry initiating this proceeding, Executive Order 2008-04S, titled "Implementing Common Sense Business Regulation," establishes factors that administrative agencies must consider in promulgating or revising administrative regulations. Among other criteria, agencies are to review their rules "to ensure that each of its rules is needed in order to implement the underlying statute . . . must amend or rescind rules that are unnecessary, ineffective, contradictory, redundant . . . or that have had unintended negative

consequences; and must reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter." (April 22, 2009 Entry, pp. 1-2.)

Quite sensibly, the Commission has adopted certain federal regulations as a standard of conduct for certain activities; most notably, pipeline and service line safety. Preventing utilities from complying with future changes in federal regulations establishes a regulatory apparatus that is "unnecessary, ineffective" and "contradictory," and is also at odds with the notion that the Commission should "reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter."[1]

The problems caused by subjecting the utilities to conflicting state and federal standards could be easily remedied by eliminating proposed Rule 4901:1-13-02(I). There are numerous citations in the MGSS to the Ohio Revised Code and to other provisions of the Administrative Code, none of which specify that the MGSS are tied to a version of a statute or rule in effect as of any particular date.[2] Accordingly, as state statutes and regulations evolve, gas and natural gas companies are required to comply with new requirements. There is no reason why federal statutes and regulations should be treated differently.

With the elimination of Rule 4901:1-13-02(I), Rule 4901:1-13-01(W) should be changed to read: "'TTY' means text telephone yoke as defined in 47 C.F.R. 64.601." Likewise, the first sentence of Rule 4901:1-13-05(A)(3)(d) should read:

[1] Although natural gas companies would have the option to request of waiver of the MGSS due to a change in federal law, the more efficient solution is to change the MGSS to eliminate the need to seek waivers. Filing a waiver does not solve the problem of which standards (federal or the MGSS) utilities should follow during the pendency of a waiver request.

[2] For example, as discussed above, Rule 4901:1-13-02(G)(1)-(4) provides that gas and natural gas companies are also subject to the pipeline safety code (Chapter 4901:1-16), rules for establishing credit for residential service (Chapter 4901:1-17), residential disconnection rules (Chapter 4901:1-18) and certain provisions of the rules applicable to CRNG suppliers (Chapters 4901:1-27, 4901:1-28, 4901:1-29, 4901:1-32 and 4901:1-34). Similarly, Rule 4901:1-13-04 requires compliance with the metering standards contained in R.C. 4933.09 and 4922.28.

> Prior to the reestablishment of service when gas has been disconnected or discontinued in a service line, the service line shall be tested in accordance with 49 C.F.R. 192.

These changes will treat compliance with state and federal requirements consistently.

C. Rule 4901:1-13-04(G)(7)

A slight change should be made to Rule 4901:1-13-04(G)(7), so that the rule states: "When a meter reading is scheduled through a menu-driven, automated, interactive answering system that allows the customer to interact ~~mechanically~~ ELECTRONICALLY rather than through a live person . . . ." With this change, the rule will more accurately describe how customers interact with automated systems.

D. Rule 4901:1-13-05(B)(3)

This rule contains certain requirements for interactive answering systems. The second sentence of the rule provides, "The system should include the option of being transferred to a live attendant by selecting a zero on the phone in the first or second tier of caller options." The rule should be broadened to encompass: (i) button options other than just "zero" which accomplish the same result; and (ii) automated systems with voice recognition capability, where options may be selected by talking instead of pushing buttons. The rule should state: "The system should include the option of being transferred to a live attendant in the first or second tier of caller options." There is no reason for the rule to dictate the specific manner ('by selecting a zero") in which customers may choose to speak with a live attendant.

E. Rule 4901:1-13-05(C)(2)

Rule 4901:1-13-05(C) governs scheduled appointments with customers. Subdivision(C)(2) requires, "On an average monthly basis (based on a calendar year), each gas or natural gas company shall complete ninety-five per cent [sic] of the scheduled appointments

with its customers." The final rule should correct the misspelling of "percent." More substantively, the following sentence should be added to the final rule:

> For purposes of compliance with this provision, if a gas or natural gas company is unable to meet a scheduled appointment due to response to an emergency, or due to cancellation of the appointment by the customer, the failure to meet such appointment shall not be considered in the calculation of the performance standard specified in this rule.

With the addition of this language, DEO and VEDO will not be penalized for failing to meet appointments due to circumstances beyond their control.

F. Rule 4901:1-13-05(C)(3)

Staff also proposes to add a new subsection (C)(3) to Rule 4901:1-13-05, which would provide as follows:

> If the gas or natural gas company offers a call-ahead process to confirm its imminent arrival at an appointment and the customer has requested telephonic notification of the company's imminent arrival, then, if the customer does not respond to the call, the appointment shall be considered to have been cancelled by the customer.

Staff's proposal, while perhaps well intentioned, would impose an additional administrative burden on DEO and VEDO, with no corresponding customer benefit.

DEO's call-ahead process uses an automated outbound call that does not require a response from the customer. The automated calling system cannot discern whether a call was answered by a live person or an answering machine (or voicemail). Tracking non-response by a customer would require significant and costly upgrades to the call ahead system, as well as increase the administrative burden of tracking service order completions and cancellations. This additional burden is unnecessary and does nothing to increase the level of customer service.

VEDO on the other hand uses live call-aheads rather than automated calls. Like DEO, VEDO strives to maintain a high level of service, and will often make repeat calls if there is no

response after the first call. Staff's proposal therefore allows a lower level of service than what VEDO currently provides. The same may be said for DEO, which strives to complete all scheduled appointments unless the customer calls to cancel.

In short, Staff's proposal is unnecessary. DEO and VEDO are already providing a level of service that exceeds the proposed rule. The proposed rule would serve only to increase the level of paperwork required to document call-aheads and cancelled appointments.

If the Commission elects to adopt the proposed rule, the rule should at least be modified to allow flexibility in how natural gas companies handle call-aheads and cancelled appointments. DEO and VEDO suggest the following language:

> If the gas or natural gas companies offers a call-ahead process to confirm its imminent arrival at an appointment and the customer has requested telephonic notification of the company's imminent arrival, ~~then, if the customer does not respond to the call,~~ the COMPANY MAY CONSIDER THE appointment ~~shall be considered~~ to have been cancelled by the customer IF THE CUSTOMER DOES NOT RESPOND TO THE CALL.

G. Rule 4901:1-13-05(D)

Staff proposes to add the following requirement contained in subdivision (D) of Rule 4901:1-13-05:

> If the gas or natural gas company repairs customer service lines, the company shall complete the repair of service-line leaks that require service shutoff by the end of the next day after the service has been shut off. On an average monthly basis (based on a calendar year), each gas or natural gas company shall complete ninety-five percent of these repairs by the end of the next day service has been shut off.

The Commission should reject this provision. Historically, customers have owned their gas service lines. Where repairs have been required, the customer was responsible for hiring a contractor to complete the repair. As the Commission is aware, DEO and VEDO have only recently begun to assume ownership of gas service lines. This change occurred as a result of

stipulations approved by the Commission in each company's most recent rate case. See, Case No. 07-829-GA-AIR, Opinion and Order of Oct. 15, 2008, p. 9 (DEO); Case No. 07-1080-GA-AIR, Opinion and Order of Jan. 7, 2009, p. 5 (VEDO). Given the recent change in the status of responsibility for service line repairs, it is premature to impose a performance standard for this new activity.

As currently written, Staff's proposal would require natural gas companies to complete service line repairs "the next day." By not limiting the rule to the next "business day," natural gas companies will be required to staff crews for service line repairs 7 days a week, 365 days per year. While the companies have yet to complete a detailed cost analysis, the cost to comply with the rule, as proposed, would very likely exceed any benefits.

The problems with Staff's proposal go well beyond whether repairs should be completed the next day or the next business day. In the experience of DEO and VEDO, single meter, residential service lines of less than 2 inches in diameter can usually be repaired by the next day through plastic insertion, which involves cutting the existing service line at both ends and inserting a plastic pipe, thereby eliminating the need to dig a trench for a new service line. Repairing or replacing services 2 inches or more in diameter, or services with multiple meter manifolds, requires significantly more planning, materials and labor. The required materials take longer to assemble, communications with multiple customers takes more coordination, and the service line must usually be replaced through direct burial, which requires excavating equipment to dig a trench. Larger jobs like this can rarely be completed by the next day.

Staff's proposed rule also does not allow for the fact that it is sometimes necessary to repair or replace service lines for vacant homes, where the gas company may not have access. Even where the companies have access, in certain situations customers may not want the repair

completed right away. This has been known to happen when customers want to coordinate a service line repair with other repairs or improvements on their property.

Staff's proposed rule also fails to specify what it means for a natural gas company to "complete the repair" of service line leaks. In particular, it is unclear whether a repair will be deemed "complete" upon repair or replacement of the service line, or whether the repair is not "complete" until indoor appliances have been re-lit. This distinction is important. If a natural gas company completes a service line repair and during the course of testing discovers a houseline leak, the customer may need to hire a plumber to repair or replace a houseline. To the extent Staff's proposed standard envisions that service line repairs are not deemed "complete" until appliances are re-lit, the standard is not achievable.

Ultimately, any performance standard regarding service line repairs should be based on objective, verifiable facts and data. Few facts or data are currently available. As discussed above, service line repairs are a new activity for Ohio LDCs. Going forward, DEO and VEDO would be happy to work with Staff and provide necessary data concerning service line repairs and completion times. The companies are also willing to make their operations personnel available to answer technical questions. A problem should be identified before any solution is proposed.

H. Rule 4901:1-13-11(B)

The current version of Rule 4901:1-13-11(B) requires gas and natural gas companies to issue bills "at regular intervals." Staff proposes to change the rule to require that bills be issued "at monthly intervals." DEO and VEDO do not bill accounts on the same day each month. Although the companies endeavor to issue bills approximately every 30 days, certain billing periods may be slightly longer or shorter than 30 days because of weekends and holidays. To the

extent Staff is suggesting that DEO and VEDO must issue bills at least once each calendar month, or that bills must be issued on the same day each month, the companies will be required to make significant and costly modifications to their respective billing systems, with little (if any) resulting benefit to customers. Staff's proposal to change "regular" to "monthly" is unnecessary and should be rejected.

I. Rule 4901:1-13(E)

Rule 4901:1-13-11(E)(1) requires gas companies to make payment options available in a number of ways and to provide, at a customer's request, a list of payment options and the address and location of authorized payment centers. Staff proposes to add an additional requirement to the rule:

> If a gas or natural gas company accepts payments from customers via authorized agents, the company shall provide signage to the authorized agent with its logo, or other appropriate indicators, that affirm the payment location as an authorized agent of the gas or natural gas company.

DEO and VEDO do not object, in principle, to the idea of providing signage to authorized payment centers. The problem with Staff's recommendation is that the rule, as written, leaves much to the imagination as to what will constitute compliance. A simple sticker, such as those commonly found on convenience store doors indicating that the store accepts MasterCard or Visa, could be deemed to comply with the rule. But perhaps Staff is looking for something more. DEO and VEDO need further clarification of Staff's expectations.

The Commission must also consider that there will be a cost associated with compliance with this rule. Without further guidance from Staff and the Commission concerning what will be required to comply with the rule, these costs are presently unknown. The Companies request, however, that the Commission make an affirmative finding that any such costs will not be

disallowed, for ratemaking purposes, as promotional or institutional advertising expense. Where the Commission orders a company to engage in certain advertising, those costs should not be disallowed for ratemaking purposes, as institutional or promotional advertising expense usually is. See, Case No. 07-551-EL-AIR, Opinion and Order of Jan. 21, 2009, at 12 (denying recovery of advertising expense incurred by FirstEnergy electric distribution utilities).

Additionally, Rule 4901:1-13-11(E)(2) places certain limitations on fees that gas companies may charge for payment processing at authorized agent locations. Staff proposes to allow gas and natural gas companies to increase their fees to a maximum of two dollars. This increase is reasonable. DEO and VEDO request that the Commission clarify the limitations on processing fees contained in subdivision (E)(2) apply only to gas LDCs, and not to fees charged by third parties, such as internet payment service providers. DEO and VEDO have no ability to dictate to third parties what fees they may charge for their services.

III. CONCLUSION

For the reasons discussed above, DEO and VEDO respectfully request that the Commission adopt revisions to the Minimum Gas Service Standards that are consistent with these joint Initial Comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Initial Comments of The East Ohio Gas Company d/b/a Dominion East Ohio and Vecten Energy Delivery of Ohio, Inc., were E-filed on the Commission's Docketing Information System (DIS) on this 22nd day of May, 2009. Parties of Record and other interested parties may access this filing through DIS.

/s Joel E. Sechler
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860:008:228045

Summary: Comments Initial Comments of The East Ohio Gas Company d/b/a Dominion East Ohio and Vectren Energy Delivery of Ohio, Inc. electronically filed by Mr. Joel E Sechler on behalf of The East Ohio Gas Company d/b/a Dominion East Ohio and Vectren Energy Delivery of Ohio, Inc.