

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**INITIAL COMMENTS OF
COLUMBIA GAS OF OHIO, INC.**

I. INTRODUCTION

By entry dated April 22, 2009, the Public Utilities Commission of Ohio ("Commission") proposed amendments to Chapter 4901:1-13, Ohio Adm. Code, pursuant to Section 119.032, Revised Code. The Commission's entry allows for any interested person or entity to file comments, in writing, by May 22, 2009 and reply comments by June 8, 2009.

Columbia Gas of Ohio, Inc. ("Columbia") hereby offers its initial comments on the proposed amendments. Columbia first offers general comments and then specific comments regarding the Commission's proposed amendments, organized according to section.

II. GENERAL COMMENTS

Columbia agrees with the Commission's Staff that it is important to review the Rules within Chapter 4901:1-13, Ohio Adm. Code, to assess whether the program is meeting the goals of the minimum gas service standards. Moreover, Columbia supports the Commission's initiative to ensure Chapter 4901:1-13, Ohio Adm. Code, is consistent with those factors referenced in Executive Order 2008-04S, such as ensuring that the rules are needed to implement the underlying statute, or that the rules are not unnecessary, ineffective, contradictory, redundant, inefficient, needlessly burdensome, result in unintended negative consequences and reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter. Accord-

ingly, Columbia submits comments by section to the proposed amendments to further the Commission's initiative.

III. COMMENTS BY SECTION

A. Rule 4901:1-13-01(H)

The definition of "customer premises" means the residence, building or office of a customer. However, Columbia traditionally defines customer premises as the place where the customer takes service. This is consistent with the definition of "customer", under Rule 4901:1-13-01(G), Ohio Adm. Code, which means any person who has an agreement ... to receive service ... from a gas or natural gas company." Columbia respectfully requests that the Commission clarify the meaning and intent of Rule 4901:1-13-01(H), Ohio Adm. Code.

B. Rule 4901:1-13-02(G)(4)

This provision subjects each gas or natural gas company to the requirements of Chapter 4901:1-34, Ohio Adm. Code, which includes the possible forfeiture of financial penalties for noncompliance of up to one thousand dollars for each failure per day. See Rule 4901:1-34-08(A) and (B), Ohio Adm. Code. Columbia submits that the Commission's authority to promulgate rules to carry out the provisions of Chapter 4929, Revised Code, is found in § 4929.10, Revised Code. House Bill 9 does not expand the Commission's authority to promulgate rules related to statutes in any chapter other than Chapter 4929, Revised Code.

Columbia continues to assert that § 4929.24(B)(2), Revised Code, enacted by House Bill 9 is the only provision of the bill that addresses the Commission's authority to order forfeitures. That section provides that the Commission may:

Order any remedy or forfeiture provided under sections 4905.54 to 4905.60 and 4905.64 of the Revised Code upon a finding under division (A)(2) of this section that the *retail natural gas supplier*

subject to certification under section 4905.20 of the Revised Code has violated or failed to comply, regarding a competitive retail natural gas service for which it is subject to certification, with any provision of sections 4929.20 to 4929.23 of the Revised Code or any rule or order adopted or issued under those sections.

The language in the statute emphasized above makes it clear that the General Assembly intended to provide the Commission with authority, as part of Chapter 4929, to assess forfeitures and other Chapter 4905 remedies against retail natural gas suppliers. Thus, under § 4929.10, Revised Code, the Commission has the statutory authority necessary to promulgate rules to carry out the enforcement of forfeitures and other remedies against retail natural gas suppliers, as provided in § 4929.24(B)(2), Revised Code.

However, House Bill 9 did not expand the Commission's authority to assess forfeitures or other remedies against natural gas companies. Such remedies are addressed in §§ 4905.54, Revised Code, *et seq.*, and these statutes were not amended by House Bill 9. Nonetheless, Rule 4901:1-34, Ohio Adm. Code, contains numerous references to enforcement procedures that are applicable to natural gas companies, which exceed the statutory authority that the General Assembly delegated to the Commission under House Bill 9. Thus, Columbia respectfully requests the Commission strike all references to enforcement procedures that reference natural gas companies or, in the alternative, strike the reference to Chapter 4901:1-13, Ohio Adm. Code, within Rule 4901:1-34-08, Ohio Adm. Code.

C. Proposed Revisions to Rule 4901:1-13-04

1. Subsection (G)(1)(c)

This provision requires gas or natural gas company's to read each "meter" at least once every twelve months. However, Rule 4901:1-13-03(G)(1), Ohio Adm. Code, states "Each gas or natural gas company shall obtain actual readings of its customer meters at least once every

twelve months.” Columbia respectfully proposes to insert the word “customer” in front of each instance where the term “meter” is used in Subsection (G)(1)(c) to ensure consistency in the language and to avoid any ambiguity throughout this section.

2. Subsection (G)(2)

Columbia respectfully requests that Rule 4901:1-13-04(G)(2), Ohio Adm. Code, be revised as it is overly broad and in conflict with other rules regulating meter reading. Rule 4901:1-13-04(G)(2), Ohio Adm. Code, states that a company may only bill for differences between estimated and actual usages under the terms of § 4933.28, Revised Code. § 4933.28, Revised Code, provides that when a company has “undercharged any *residential* customer as the result of a meter or metering inaccuracy or other continuing problem *under its control*,” they may only bill the customer for the amount of unmetered gas. Ohio Revised Code Ann. §4933.28(A) (emphasis added). Rule 4901:1-13-04(G)(2), Ohio Adm. Code, includes this section of the code and applies it to not only residential customers, but small commercial customers as well. This is directly contradictory to the language of § 4933.28, Revised Code, which is specifically limited to residential customers.

The Commission also exceeds its reach by maintaining through Rule 4901:1-13-04(G)(2), Ohio Adm. Code, that § 4933.28, Revised Code, applies when a company fails to obtain meter readings for *any reason*. This language is directly contradictory to the language of § 4933.28, Revised Code, which specifically limits a companies collection of unmetered gas as a result of a meter or metering inaccuracy or *other continuing problem under its control*. Ohio Revised Code Ann. §4933.28(A) (emphasis added). Further, inserting the language italicized above in § 4933.28(A), Revised Code, would create consistency with the intent of Rule 4901:1-13-04(G)(1)(c) in that adherence to a company’s meter reading plan creates a rebuttable pre-

sumption that the company's failure to read the meter at least once in the twelve-month period was a matter beyond its control.

These interpretations are supported by the holding in *Cincinnati Gas & Electric Co v. Joseph Chevrolet*, where the court found that the "legislature is aware of undercharging due to metering inaccuracy under the utility's control" and that it has "determined that only residential customers are entitled to some protection." 791 N.E.2d 1016, 1025 (Hamilton Co. App. 2003). Therefore, Rule 4901:1-13-04(G)(2), Ohio Adm. Code, unreasonably broadens the scope of the applicable revised code by including small commercial and by including the language "any reason".

This language is detrimental to gas or natural gas companies because any customer who prevents the company from obtaining actual meter readings may be able to avoid paying their gas bills in full after one year. The company should not be penalized if it has made efforts to obtain actual meter readings and could not, due to being denied access or otherwise. Although this is addressed in part in Rule 4901:1-13-04(G)(1)(a)-(c), Ohio Adm. Code, the language used in subsection (G)(2) remains in conflict and creates unnecessary confusion. It also does not cover meter reading situations that arise outside the scope of the company's meter reading plans on file with the Commission. Thus, companies could still be subject to penalties for situations beyond their control.

In turn, the effect of this language encourages gas or natural gas companies to terminate service to customers who repeatedly deny companies the ability to obtain actual readings, when such situations are not enumerated in their plans filed under (G)(1)(a)-(c). This is contrary to the purpose of the Commission and its rules. This also goes against the various protections the Commission has in place to protect customers with poor payment records.

There is also a potential conflict with Rule 4901:1-18-02(G)(1), Ohio Adm. Code, which allows a company to terminate service when the residential customer has prevented the company from reading the meter for a year or more. Under Rule 4901:1-13-04, Ohio Adm. Code, the company has to first incur penalties by waiting a year before they are permitted under Rule 4901:1-18-02, Ohio Adm. Code, to terminate service. The contemporaneous application of these rules subjects companies to unfair billing penalties for which redress is not available.

Because of the overly broad reach of Rule 4901:1-13-04(G)(2), Ohio Adm. Code, Columbia respectfully requests the Commission issue revisions so that the rule only applies to residential customers. Columbia also respectfully requests that the Commission revise the phrase “for any reason” in subsection (G)(2) to be consistent with the language stated in § 4933.28, Revised Code, and with respect to subsection (G)(1)(c). Thus, Columbia proposes the following changes:

If a gas or natural gas company fails to read a residential ~~or small commercial~~ customer’s meter for ~~any reason~~ a continuing problem under its control for any twelve-month period and the company has underestimated the customer’s usage, the company may only bill the customer for the difference between the estimated usage and the actual usage under the terms of section 4933.28 of the Revised Code based upon the appropriate rates in effect at the time the gas or natural gas was used. If the company fails to read a residential ~~or small commercial~~ customer’s meter for any twelve-month period and the company has overestimated the customer’s usage, the company shall credit such customer for the overestimated usage at the appropriate rate(s) in effect at the time the gas or natural gas was used.

3. Subsection (G)(3)

Columbia respectfully requests that Rule 4901:1-13-04(G)(3), Ohio Adm. Code, be revised as it is overly broad. Rule 4901:1-13-04(G)(3), Ohio Adm. Code, states that when a gas or natural gas company has undercharged any small commercial customer as the result of a meter or metering inaccuracy or other continuing problem under its control the maximum portion of the

undercharge shall be billed to the customer in any billing month determined by dividing the amount of the undercharge by the number of months of the undercharged service. Undoubtedly, the Commission extracts this language from § 4933.28, Revised Code. However, § 4933.28, Revised Code, provides that when a company has “undercharged any *residential* customer as the result of a meter or metering inaccuracy or other continuing problem *under its control*,” the maximum portion of the undercharge shall be billed to the customer in any billing month determined by the number of months of the undercharged service. Ohio Revised Code Ann. §4933.28(A) (emphasis added). Rule 4901:1-13-04(G)(3), Ohio Adm. Code, incorporates this section of the code and applies it to small commercial customers and not residential customers. This is directly contradictory to the language of § 4933.28, Revised Code, which is specifically limited to residential customers. Therefore, Rule 4901:1-13-04(G)(3), Ohio Adm. Code, unreasonably broadens the scope of the applicable revised code by applying that statutory language to small commercial customers.

D. Proposed Revisions to Rule 4901:1-13-05

1. Subsection (A)(3)

This provision requires that prior to the establishment or reestablishment of residential or nonresidential gas service the piping down stream of the meter include a service drop for a gas appliance. Columbia respectively requests the elimination of the requirement for a service drop for a gas appliance to be installed prior to the establishment or reestablishment of gas service. The elimination of this requirement will simplify the scheduling of establishing initial gas service, thus improving service to customers. A company would still be required to test all existing house line prior to establishing service. Accordingly, Columbia submits the following proposed changes:

(3) Prior to initial operation or reestablishment of residential or nonresidential gas service (including after an outage), the existing gas piping downstream of the meter shall be tested to determine that no leaks exist. Testing may be accomplished by pressure testing or dial testing as set forth in paragraphs (A)(3)(a) to (A)(3)(d) of this rule.

2. Subsection (A)(3)(a)

This provision specifies the use of a manometer or a pressure measuring device for pressure testing. As defined in Rule 4901:1-13-01(M), Ohio Adm. Code, a manometer is a pressure measuring device. Columbia respectfully suggests simplifying this section by eliminating this duplicative term. Accordingly, Columbia submits the following proposed changes:

(a) When pressure testing, the test pressure shall be measured ~~with a manometer or~~ with a pressure measuring device designed and calibrated to read, record, or indicate a pressure loss due to leakage during the pressure test period.

3. Subsection (A)(3)(b)

This provision contains the requirement to test new house lines at new installations. The requirements listed in this section are generally taken from the National Fuel Gas Code. Columbia respectfully suggests that the detailed requirement for testing house lines be removed from this section and replaced by incorporation by reference to the National Fuel Gas Code. Such a change has an inherent benefit in that the National Fuel Gas Code is a nationally recognized standard and would create a single reference for all house line related issues. Accordingly, Columbia submits the following proposed changes:

(b) For new house lines at new installations, a pressure test shall be conducted at ~~no less than one and one half times the proposed maximum working pressure, but not less than three pounds per square inch gauge (PSIG). Consideration shall be given the~~

~~accommodate the manufacturer's inlet pressure specifications for connected appliances. Appliances may need to be isolated during the pressure test to prevent damage. All appliance drops shall be tested at a minimum of operating pressure. The test duration shall be no less than one half for each five hundred cubic feet of pipe volume or fraction thereof. 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. The duration of the test shall not be required to exceed twenty four hours. in accordance with NFPA 54 ANSI Z223.1.~~

4. Subsection (A)(3)(c)

This provision contains requirements for reestablishing gas service. The requirements listed in this section are generally taken from the National Fuel Gas Code. Columbia respectfully suggests that the detailed requirement for testing house lines be removed from this section and replaced by incorporation by reference to the National Fuel Gas Code. Such a change has an inherent benefit in that the National Fuel Gas Code is a nationally recognized standard and would create a single reference for all house line related issues. Accordingly, Columbia submits the following proposed changes:

~~(c) For existing house lines when reestablishing gas service, a pressure test check for leakage shall be conducted at operating pressure for a duration of no less than three minutes. When gas service has been off for less than thirty days (such as during an outage), a dial test at operating pressure may be used in place of a pressure test. The duration of the dial test shall be no less than: five minutes for meters which have minimum registering dials showing one fourth or one half cubic foot; seven minutes for meters that have a minimum registering dial showing one cubic foot; ten minutes for meters that have a minimum registering dial showing two cubic feet; twenty minutes for meters that have a minimum registering dial showing five cubic feet; and thirty minutes for meters that have a minimum registering dial showing ten cubic feet. in accordance with NFPA 54 ANSI Z223.1.~~

5. Subsection (A)(3)(d)

This provision establishes the requirements for testing of bare steel service lines operating at less than one PSIG at three PSIG for ten minutes. Columbia respectfully suggests that the Commission use the guidance material in 49 C.F.R 192 (GM Appendix 192-10) to establish this testing requirement, which requires testing at ten PSIG for five minutes. Accordingly, Columbia submits the following proposed changes:

(d) 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 effective as of the date set forth in paragraph (I) of rule 4901:1-13-02 of the Administrative Code. Bare steel services operating at a pressure less than one PSIG shall be tested at a minimum of ~~ten~~ three PSIG for a duration of no less than ~~five~~ ten minutes. Bare steel service lines that have been previously abandoned shall not be returned to service. For purposes of this rule, "abandoned" shall mean pipe that was not intended to be used again for supplying of gas or natural gas, including a deserted pipe that is closed off to future use.

6. Subsection (C)(3)

Columbia supports the proposed language in this subsection and believes the intent behind the proposed language achieves an important regulatory initiative that will enhance company efficiencies and customer satisfaction. Columbia does, however, recommend minor changes to the language to encompass all types of notification or communications used by Columbia, including emails, text messages or telephone calls. Accordingly, Columbia proposes the following changes:

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 or electronic notification of the company's imminent arrival, then, if the customer does not respond to the call notification, the appointment shall be considered to have been cancelled by the customer.

7. Subsection (D)

This provision sets forth a baseline of ninety-five percent in which gas or natural gas companies must complete the repairs of service-line leaks by the end of the next day after service has been shut off. Columbia respectfully requests that the Commission set forth the factors and analysis it considered in determining that ninety-five percent was the most appropriate baseline to use when determining whether gas or natural gas companies are compliant with this requirement. Such data will allow Columbia to ensure all relevant factors have been considered so as to create the most prudent baseline.

E. Proposed Revisions to Rule 4901:1-13-11(B)(11)

This provision would require Columbia to display the total charge attributable to the gross receipts tax, expressed in dollars and cents, and the gross receipts tax rate on each customer bill. Columbia believes the intent behind this provision is to create an apples-to-apples comparison for customers regarding the CHOICE program as this requirement is only applicable to gas or natural gas companies that allow for competitive retail natural gas services on their system. If this is in fact the Commission's intent, Columbia asserts that such an apples-to-apples comparison is correctly achieved by requiring the gas or natural gas company to display the total charge attributable to the gas cost recovery rate and the gross receipts tax rate, but not to the total charge attributable to the gross receipts tax. Thus, Columbia proposes the following language:

The total charge attributable to the gas cost recovery ~~gross receipts tax~~, expressed in dollars and cents, and the gross receipts tax rate. This requirement only applies to gas or natural gas companies that allow for competitive retail natural gas services on their system.

F. Proposed Revisions to Rule 4901:1-13-12(D)(1)(b)

While Columbia supports the proposed language in Rule 4901:1-13-12(D)(1)(b), Ohio Adm. Code, it respectfully requests the Commission add language that would allow companies to provide account numbers to agencies serving low-income customers through Commission-approved energy conservation programs. Such a change would enable those agencies to identify high use Percentage of Income Payment Plan customers and target those customers with energy efficiency services.

IV. CONCLUSION

For the reasons stated above, Columbia respectfully requests the Commission consider the comments and adopt the regulatory amendments suggest above.

Respectfully submitted,

COLUMBIA GAS OF OHIO, INC.

By: Daniel A. Creekmur (signed by Brandi Scott)
Daniel A. Creekmur
Counsel

Stephen B. Seiple, Assistant General Counsel
Daniel A. Creekmur, Counsel
200 Civic Center Drive
P.O. Box 117
Columbus, Ohio 43216-0117
Telephone: (614) 460-4680
Fax: (614) 460-6986
Email: sseiple@nisource.com
dcreekmur@nisource.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/22/2009 3:33:42 PM

in

Case No(s). 09-0326-GA-ORD

Summary: Comments INITIAL COMMENTS OF COLUMBIA GAS OF OHIO, INC.
electronically filed by B. Scott on behalf of Columbia Gas of Ohio