

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review of)
the Gas Pipeline Safety Rules Contained in) Case No. 09-829-GA-ORD
Chapter 4901:1-16 of the Ohio Administrative)
Code.)

**INITIAL COMMENTS OF
THE OHIO GAS COMPANY**

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I. INTRODUCTION

On September 30, 2009, the Public Utilities Commission of Ohio ("Commission") issued an Entry with Commission Staff's ("Staff") proposed modifications to the Commission's Gas Pipeline Safety ("GPS") Rules, as contained in Chapter 4901:1-16 of the Ohio Administrative Code ("O.A.C."). The proposed modifications include amendments to the provisions pertaining to classification of pipeline leaks as well as a change in the procedure for the payment of forfeitures and payment made pursuant to stipulation. Further, the proposed GPS rules would add a brand new rule that would incorporate into the gas pipeline safety rules the pressure testing standards contained in Rule 4901:1-13-05 (A)(3), O.A.C. Ohio Gas Company ("Ohio Gas") hereby respectfully submits its comments for the Commission's review.

II. COMMENTS ON PROPOSED AMENDMENTS AND CHANGES TO CHAPTER 4901:1-16 OF THE OHIO ADMINISTRATIVE CODE.

(A) Rule 4901:1-16-04 – Records, Maps, Inspections and Leak Classifications.

Ohio Gas recommends that the last sentence of Rule 4901:1-16-04(I)(2), O.A.C., be amended to be consistent with the proposed changes to Rule 4901:1-16-04(I)(3), O.A.C. The revised language would read as follows:

~~Grade-two~~ Leaks classified as grade two shall be reevaluated at least once every six months until ~~cleared~~ there is no longer any indication of leakage, the leak is reclassified, or the pipeline is replaced.

This change will align the requirements with respect to treatment of leaks classified as grades two or three.

(B) Rule 4901:1-16-15 – Pressure Testing Standards.

The Commission explains in its September 30, 2009 Entry that Staff is “recommending that the pressure testing standards contained in Rule 4901:1-13-05(A)(3), O.A.C., should also be included in the gas pipeline safety rules in Chapter 4901:1-16, O.A.C. Therefore, they have recommended the new rule be added as Rule 4901:1-16-15.”¹

Ohio Gas believes the Commission lacks statutory jurisdiction or authority to create new safety standards for facilities that are downstream of a utility company’s meter. Additionally, the new rule will result in duplicative and/or conflicting requirements regarding required pressure tests. It appears the result

¹ Entry at 2, ¶4 (September 30, 2009).
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of the new rules will be two separate, and perhaps conflicting, reporting, auditing and enforcement processes. There is no indication whether implanting these provisions from Rule 4901:1-13-05, O.A.C., will require natural gas companies to keep separate and distinct records for the purposes of complying with each of the rules and, if so, what kind of burden or how detailed such recordkeeping requirements will impose on natural gas companies. This would result in incremental costs being imposed on Ohio Gas and its customers.

(1) Rule 4901:1-16-15(A)(2) and Rule 4901:1-16-15(A)(3)

Proposed Rules 4901:1-16-15(A)(2) and 4901:1-16-15(A)(3), O.A.C., would embed in the pipeline safety rules pressure testing requirements for new house lines at new installations and existing premises when re-establishing service that are nearly identical to the pressure testing requirements in Rule 4901:1-13-05, O.A.C.

Ohio Gas believes that the Commission does not have the statutory authorization or jurisdiction to adopt these proposed rules. Customer-owned piping downstream of the meter is explicitly excluded from the definition of “service line” under 49 C.F.R. 192.3.² The definition of “service line” specifically states: “... A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.” Thus, customer-owned

² 49 C.F.R. 192.3 states “Service line means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.”

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piping downstream of the meter is not included in the definition of “service line” and is not subject to the inspection and auditing process of “pipeline facilities” as defined in 49 C.F.R. 192.3 and as carried out by the Commission’s GPS auditors.³ The Commission lacks jurisdiction to insert these requirements into the GPS rules.

Further, Chapter 7 of the National Fuel Gas Code gives jurisdiction to the local code authority when building permits are issued. It is the local authority’s responsibility to inspect and ensure that customer-owned piping installations comply with local building codes. The proposed rules are duplicative of existing regulations and may conflict or be incompatible with the multitude of building codes in Ohio’s local political bodies.

The provisions of the proposed rules are both beyond the Commission’s statutory jurisdiction, duplicative, and unnecessary and Ohio Gas requests the Commission not adopt these new proposed rules.

(2) Rule 4901:1-16-15(A)(4)

The test specifications contained in proposed Rule 4901:1-16-15(A)(4) are for gas service lines. Testing requirements for gas service lines for GPS purposes already exists in 49 C.F.R. Part 192. The adoption of a new, conflicting standard is unreasonable and inappropriate. The Commission provides no rationale for why a new, conflicting standard is necessary and provides no

³ 49 C.F.R. 192.3 states “Pipeline facility means new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.”

explanation as to why the current standard under 49 C.F.R. Part 192 is insufficient for the Commission's purposes.

(3) Rule 4901:1-16-15(A)(5) and Rule 4901:1-16-15(A)(6).

The proposed new Rule 4901:1-16-15(A)(5) and (A)(6), O.A.C., would duplicate the provisions of Rule 4901:1-13-05(A)(4) and (A)(5), O.A.C., that relates to gas utility compliance and reporting under the provisions of calculating performance under the Minimum Gas Service Standards ("MGSS"). As explained above, Ohio Gas is unclear whether adding this rule to the GPS rules will provide value to customers and the Commission, will impose duplicative and unnecessary recordkeeping requirements, and will burden customers and Ohio Gas with needless incremental costs.

(C) Governor Ted Strickland's ("Governor") Executive Order

The Commission's September 30, 2009 Entry acknowledges the Governor's February 12, 2008 Executive Order entitled "Implementing Common Sense Business Regulation"⁴ and that the Executive Order directs state agencies to "reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter." The Executive Order also mandates that administrative agencies strike "a reasonable balance between the underlying regulatory objectives and the burdens imposed by regulatory activity."⁵ The Executive Order further states that "agency rules are expected to impose the

⁴ Entry at 1-2. See Executive Order, Implementing Common Sense Business Regulation (February 12, 2008). The Governor's Executive Order can be viewed at <http://governor.ohio.gov/Portals/0/Executive%20Orders/Executive%20Order%202008-04S.pdf>.

⁵ Executive Order at 2, ¶4(c).

least burden and costs to business, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.”⁶

The Commission’s GPS auditing and inspection efforts are largely undertaken to ensure compliance with federal pipeline safety standards. Federal regulation now adequately regulates the subject matter in this area and not adopting proposed Rule 4901:1-16-15, O.A.C., would achieve a proper balance between the regulatory objectives sought to be achieved by such changes while also acknowledging the magnitude of the potential cost and paperwork burdens associated with compliance with the rules.

III. CONCLUSION

Ohio Gas appreciates the opportunity to make these comments and respectfully urges the Commission to consider and adopt the recommendations of Ohio Gas.

Respectfully submitted,

/s/

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⁶ Executive Order at 2-3, ¶4(f).
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Summary: Comments Initial Comments of The Ohio Gas Company electronically filed by Mr. Joe Clark on behalf of Clark, Joseph M. Mr. and The Ohio Gas Company and Mr. Joseph M Clark