

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

6
RECEIVED-DOCKET
2009 OCT 30 PM 12:15
PUCO

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

COMMENTS OF
DUKE ENERGY OHIO

INTRODUCTION:

Pursuant to R.C. 119.032, the Public Utilities Commission of Ohio (Commission) conducted a review of the current rules contained in Chapter 4901:1-16, Ohio Administrative Code (O.A.C.). In its entry dated September 30, 2009, the Commission proposed revisions and amendments to Chapter 4901:1-16 and seeks comments from interested parties concerning its recommendations.

The following are the comments of Duke Energy Ohio.

I. Rule 4901:1-16-01¹ - Definitions.

The definition of "master meter system" includes two sentences, the second one of which excludes certain pipelines. The defined term, in that second sentence, should be in quotation marks in order to avoid confusion.

II. Rule 4901:1-16-04 – Records, maps, inspections, and leak classifications.

¹ For ease of reference, rules will be cited based on chapter and rule number, rather than the full citation to the O.A.C.

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business
Technician ARC Date Processed 10/30/09

Paragraph (I) of Rule 16-04 sets forth the actions that must be taken upon discovery of leaks of any grade. The proposed modifications are largely appropriate. However, one additional change should be considered by the Commission in order for the rule to be entirely clear.

The proposed modifications to subparagraph (I)(3) of Rule 16-04 specifically recognize that a grade-three leak may no longer require inspection under that provision, due to the leak stopping of its own accord, or due to increased leakage resulting in a higher grade classification, or due to the pipeline having been replaced. However, the proposed modifications to the parallel subparagraph relating to grade-two leaks, subparagraph (I)(2), only allows periodic inspections to stop if the leak is “cleared.” This word does not appear to cover a change in the leak that results from anything other than replacement. In order to avoid confusion and misinterpretation, this subparagraph should be modified in the same manner as subparagraph (I)(3). Thus, the final sentence should read as follows: “Grade-two leaks 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.”

III. Rule 4901:1-16-05 – Notice and reports of service failures and incidents; twenty-four hour contacts; one-call participation; post-incident testing; and cast iron pipeline program.

In subparagraphs (A)(1) and (B)(1) of Rule 16-05, there are citations to portions of the Code of Federal Regulations. The language immediately following those citations, cross-referencing to paragraph (D) of Rule 16-02, is confusing. Other rules in Chapter 16, O.A.C., more clearly delineate that the cross-reference to Rule 16-02 only relates to

the effective date of the Code of Federal Regulations. Examples of other cross-references in this chapter can be found at paragraphs (F) and (O) of Rule 16-01 (as numbered in the proposed rules), paragraph (A) of Rule 16-03, paragraph (E), (F), and (G) of Rule 16-04, and subparagraph (A)(4) of proposed Rule 16-15.

Duke Energy Ohio would suggest that the cross-reference to paragraph (D) of Rule 16-02 be made in a manner consistent with other rules in this chapter. Therefore, that portion of the sentence in each of those subparagraphs should read: “. . . pursuant to 49 C.F.R. 40, 191, 192, and 199 as effective on the date referenced in paragraph (D) . . .”

Duke Energy Ohio would also suggest a minor change to staff’s proposed revisions, in subparagraphs (A)(1) and (A)(2) of Rule 16-05. Staff is proposing to add a “1” before the telephone numbers that are included in each of those subparagraphs. Duke Energy Ohio believes that this change is both unnecessary and potentially confusing. While certain methods of dialing long distance calls do require the inclusion of a “1,” others do not. Each individual caller is best positioned to know whether a “1” is required on the telephone that is being used. Therefore, Duke Energy Ohio would believe that the “1” should not be added.

IV. Rule 4901:1-16-06 – Construction reports.

Consistent with the Commission’s drafting practices, staff has proposed deleting the “or” between subparagraphs (1) and (2). In an effort to retain the disjunctive meaning of the provision, staff has proposed adding the term “either” in the lead-in language. Duke Energy Ohio respectfully suggests that the meaning would be clarified if the language were modified as follows: “. . . in a single project which involves an expenditure of either of the following.”

V. Proposed Rule 4901:1-16-15 – Pressure Testing Standards.

In its entry issuing the proposed rules for comment, the Commission noted, in finding (4), 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 4901:1-15.” Duke Energy Ohio does not agree with the proposed new rule.

The pressure testing requirements in the minimum gas safety standards in Chapter 13, O.A.C., relate to nonjurisdictional customer service piping that is not regulated by gas pipeline safety codes. The Commission is authorized, under Section 4905.91(A)(1), Revised Code, to adopt rules only to carry out Sections 4905.90 to 4905.96 of the Revised Code. Nothing in those sections relates to customer-owned house lines. Thus, rules on this topic are not authorized for inclusion in this chapter and are inappropriate for promulgation. Duke Energy Ohio would emphasize that, by removing this proposed rule, the Commission will not be diminishing any safety impacts that the rule might have had, as these provisions are already in place under Chapter 13, O.A.C.

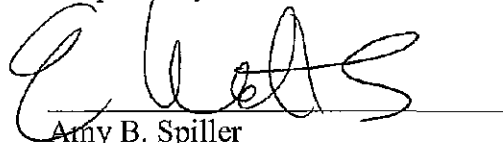
In addition, in the event that the Commission determines that this proposed rule should be promulgated, certain modifications to the proposal should be made. Paragraph (A)(4) of Rule 16-15 requires that bare steel lines operating at less than one pound per square inch gauge (PSIG) be tested at a minimum of ten PSIG, prior to the reestablishment of service following disconnection or discontinuation. On the other hand, the corresponding provision in Chapter 13, O.A.C., would require the same line to be tested at a minimum of three PSIG. Rule 13-05(A)(3)(d), O.A.C. This inconsistency should be resolved.

Furthermore, paragraphs (A)(5) and (A)(6) of the proposed new rule are not only duplicative of the corresponding provisions in Chapter 13, O.A.C., but are also irrelevant to Chapter 16, O.A.C., in that they relate to the computation of performance requirements under Chapter 13. These two paragraphs should be deleted from any rules that are promulgated by the Commission.

VI. Conclusion

For all the foregoing reasons, Duke Energy Ohio requests that the Commission revise and clarify the proposed rules in accordance with Duke Energy Ohio's suggestions herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Watts', is written over a horizontal line.

Amy B. Spiller
Associate General Counsel
Elizabeth H. Watts
Assistant General Counsel
Duke Energy Business Services, Inc.
Counsel for Duke Energy Ohio, Inc.

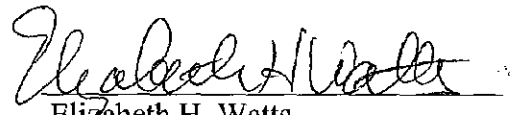
Columbus Office:
155 East Broad Street
Suite 2100
Columbus, Ohio 43215
(614) 222-1331

Cincinnati Office:
2500 Atrium II, 139 East Fourth Street
P.O. Box 960
Cincinnati, Ohio 45201-0960
(513) 419-1871

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via first class U.S. Mail, postage prepaid, this 30th day of October, 2009 upon the following:.

Duane W. Luckey, Esq.,
Attorney General
Chief, Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, OH 43215-3793


Elizabeth H. Watts