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PUCO

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

INITIAL COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

The Public Utilities Commission of Ohio ("PUCO" or "Commission"), by Entry dated September 30, 2009, initiated this review of its Gas Pipeline Safety Rules, Ohio Admin. Code 4901:1-16, and sought comments on the proposed revisions by the PUCO Staff ("Staff"). The purpose of these safety rules is to ensure that Ohioans have access to safe and reliable natural gas service. The Entry invited interested parties to file initial comments by October 30, 2009, and reply comments by November 20, 2009. The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of Ohio's residential utility consumers, hereby submits these initial comments on the Staff's proposed rules.¹

In general, Staff is to be commended for developing well organized rules that should serve to protect public safety. However, a common theme that occurs throughout the existing and proposed rules is the lack of transparency in reporting, compliance efforts, and enforcement efforts by the Staff. More publicly available information is

¹ OCC has legislative authority to represent the residential utility consumers of Ohio pursuant to Chapter 4911 of the Ohio Revised Code.

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appropriate given the seriousness of potential issues and the cost impact that can be felt by all customers.

The enforcement or compliance efforts that the Staff is undertaking regarding pipeline safety should be publicly available as well. Staff-issued notices of probable non-compliance should be docketed in furtherance of greater transparency regarding the Commission's public role.

Finally, the rules should help ensure that customers are not financially harmed if a gas company is unable to complete a scheduled installation within the standards imposed by the Commission. OCC recommends that the following changes, by rule, should help promote more public awareness of the gas pipeline safety issues in the state.

II. SPECIFIC CHANGES BY RULE

4901:1-16-05(B)

The proposed rules impose requirements on gas pipeline operators to disclose incidents and service failures to the chief of the gas pipeline section of the Commission. While this reporting is certainly appropriate, the requirements for reporting should not be limited to just reports that are submitted to the Commission Staff. Gas pipeline operators should be required to publicly file reports that involve incidents or service failures. The public has the right to know about issues that can directly affect public safety. Filing these reports at the Commission will help ensure that the public has access to the information if desired.

OCC recommends Rule 16-05(B) be modified as follows:

- (B) Written reports regarding incidents and service failures.
- (1) All written reports required to be made to the United States department of transportation pursuant to the regulations in 49 C.F.R. 40, 191, 192, and 199 as referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, shall be publicly filed at the commission. ~~submitted concurrently to the chief.~~
 - (2) Within thirty days after the service failure is discovered, each operator shall ~~submit~~ file a written report ~~with the commission to the chief~~ on the service failure report form provided by the commission.
 - (3) For each incident report and each service failure report required by the pipeline safety code, each operator shall also file ~~submit~~ a final written report of the cause(s) of the incident or service failure, where ascertainable, and actions taken to minimize the possibility of a recurrence of such an incident or service failure, where appropriate. The final report shall be filed at the commission ~~submitted to the chief~~ within sixty days after discovery of the incident or service failure, unless the operator:
 - (a) For good cause, shows more time is needed.
 - (b) Submits interim reports at intervals of not more than sixty days until a final report is submitted.
 - (4) Except for an operator of a master meter system, each operator shall ~~submit~~ publicly file an annual written report of incidents and service failures for the preceding calendar year or state that no incidents or service failures occurred during the preceding calendar year on the annual report form provided by the commission. This annual report shall be filed ~~submitted to the chief~~ not later than March fifteenth of each year.

4901:1-16-06(C)

The proposed rules require gas pipeline operators to report additions and changes that are made to its intrastate gas pipeline facilities to the Staff of the Commission. There are also provisions in the rules for periodic update reports to be provided to the Staff. OCC believes that the public would benefit from knowing the investment that is being made in gas pipeline facilities if the information were provided periodically in an

aggregate basis. The rules provide for an annual report to be submitted to the commission that lists each of the important additions made in the preceding year.

OCC recommends that this report be amended to include the cost of the addition and that the report be publicly filed.

- (C) Except for an operator of a master meter system, each operator shall submit a list of important additions including the total cost of the project completed during the preceding calendar year or state it did not complete important additions during the preceding calendar year on the annual report form provided by the commission. This annual report shall be filed at the commission ~~submitted to the chief~~ not later than March fifteenth of each year.

4901:1-16-09(A), (B), (C)

The proposed rules enable the Staff to issue notices of probable non-compliance to the operator of gas pipeline systems. The issuance of notices of probable non-compliance could be of interest to other parties and not just the Staff and gas pipeline system operator. As the statutory representative for residential consumers, OCC would be interested in potential compliance issues that affect consumers. If the notices of probable non-compliance are not publicly filed, OCC and other interested stakeholders might not have awareness of the issue.

OCC recommends that the rule(s) be modified as follows.

- (A) After an inspection or investigation, the staff may issue a notice of probable noncompliance, which the staff shall file in a public docket.
- (B) The staff may issue with the notice of probable noncompliance or separately thereafter:
...
- (C) The staff may issue an amended notice of probable noncompliance, proposed compliance order, or proposed forfeiture, which the staff shall file in a public

docket, at any time prior to the commencement of a gas pipeline safety proceeding brought pursuant to rule 4901:1-16-12 of the Administrative Code, in order to modify or include additional probable noncompliance or violations, facts, proposed forfeitures and proposed compliance orders. This rule should not be construed to prevent the staff, during the course of a gas pipeline safety proceeding, from seeking a finding of violations not listed in the notice or amended notice of probable noncompliance, from rescinding or refraining from seeking a finding of violations, or from seeking a compliance order or proposed forfeiture that varies from previous notices issued under this rule, provided that the staff's proposed findings and/or violations relate to the same incident, investigation, or safety audit(s).

4901:1-16-10(A)

The proposed rules enable Staff to issue notices concerning hazardous facilities. The issuance of notices of hazardous facilities is in the interest of public safety and therefore, the public should have the opportunity to know about the Staff's findings through the filing of the notices. If the notices of hazardous facilities are not publicly filed, the public could remain unaware of the issues.

OCC recommends that the rule be modified as follows.

- (A) After an inspection or investigation, the staff may issue a notice of hazardous facility, which the staff shall file in a public docket. The notice may include a proposed compliance order.

4901:1-16-15(A)(5)

Ohio Admin Code 4901:1-13-05(A)(1) and (A)(2) impose timeliness standards for initiating new service. In general, ninety percent of residential and small commercial new service requests must be completed within five business days if there are no new service lines being installed. In addition, ninety percent of residential and small commercial new service requests must be completed within twenty business days if a new service line is being installed. Staff has proposed a new rule where the gas company

must notify the customer if the requested service installation or upgrade can not be completed within the standards. If the rescheduled completion date exceeds five days, the gas company must provide such notice in writing.

Customers can incur significant out-of-pocket expense if the service installations are not completed on schedule. These expenses can include lodging and meal costs if the customers are unable to reside in the home. In addition, customers risk property damage when utility services are not available. While OCC supports a requirement for companies to provide customers with notices about delay, the gas companies should also share in the responsibility and at least share the burden and cost responsibility. A financial burden on the company will ensure that the company has a financial stake in completing installations on a timely basis. OCC recommends that the monthly customer charge be waived for the month in which the service was not completed within the standards.

OCC recommends the rule be modified as follows.

- (5) If a residential or small commercial customer complies with all pertinent tariff requirements and the gas or natural gas company cannot complete the requested service installation or service upgrade as set forth in paragraph (A)(1) or (A)(2) of rule 4901:1-13-05 of the Ohio Administrative Code, the gas or natural gas company shall promptly notify the customer of the delay, the reasons for the delay, the steps being taken to complete the work, and the probable completion date. The gas company shall also waive the customer charge for the month in which the delay in installation occurred. If a rescheduled completion date cannot be met, the customer shall be promptly notified. If the rescheduled completion date is delayed more than five business days, written notification shall be given to the customer including the reason(s) for the delay, the steps being taken to complete the work and the new rescheduled completion date. If the delay crosses into two billing months, the gas company shall waive the monthly customer charge for both months. This notification process shall be repeated as necessary. Each subsequent missed completion date shall count as a missed service installation or upgrade for purposes of calculating performance under paragraph (A)(1) or (A)(2) of rule 4901:1-13-05 of the Ohio Administrative Code.

4901:1-16-15(A)(7)

There are occasions where customers may need verification from the gas or natural gas Company that pressure tests were performed, and the results of such testing. OCC recommends that customers should be able to obtain a written summary of the results of the pressure testing upon request.

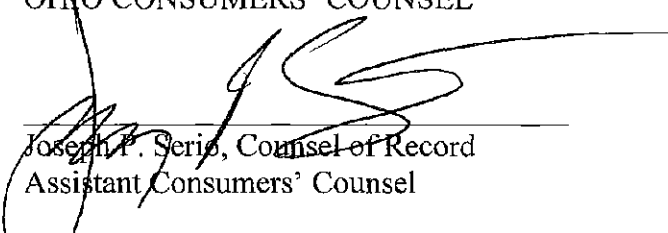
OCC recommends the rule be modified as follows.

- (7) Upon request by a customer, the gas or natural gas company shall provide that customer with a written summary of the results of any pressure test(s) that were conducted at their premises

III. CONCLUSION

OCC appreciates the opportunity to provide initial comments on the Staff 's proposed gas pipeline rules. The changes recommended by the OCC should result in a more open process and disclosure of gas safety issues that can have a direct impact on the public. In addition, OCC supports a requirement for the PUCO staff to file notices of probable non-compliance, so that interested parties can be alerted to issues that potentially could affect their clients. Finally, OCC recommends that the customer charge be waived for any month in which a gas company is not complying with new service installation standards.

JANINE L. MIGDEN-OSTRANDER
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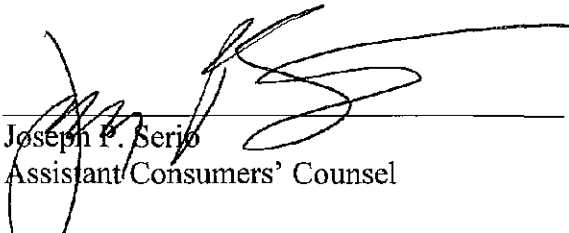


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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Initial Comments by the Office of the Ohio Consumers' Counsel*, was served by Regular U.S. Mail Service, postage prepaid, to all parties this 30th day of October, 2009.


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