

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of Rules)
4901:1-16-01 and 4901:1-16-02, Ohio)
Administrative Code, to Incorporate Recent) Case No. 11-5391-GA-ORD
Changes in Federal Regulations Regarding)
Gas Pipeline Safety.)

FINDING AND ORDER

The Commission finds:

- (1) Chapter 4901:1-16, Ohio Administrative Code (O.A.C.), contains rules delineating the gas pipeline safety (GPS) requirements in Ohio, as well as the means for administering and enforcing those requirements. The rules in Chapter 4901:1-16, O.A.C., incorporate Code of Federal Regulation (C.F.R.) requirements.
- (2) By entry issued October 18, 2011, the Commission found that, provided there were no objections received by November 9, 2011, the proposed revisions to Rules 4901:1-16-01 and 4901:1-16-02, O.A.C., attached to that entry should be adopted.
- (3) On November 9, 2011, the Ohio Gas Association (OGA)¹ filed an objection to the proposed change to the definition of incident contained in Rule 4901:1-16-01(G), O.A.C. No other objections or replies were filed.
- (4) The first proposed revision is in Rule 4901:1-16-01(G), O.A.C., which currently defines "incident" as "an event that involves a release of gas from an intrastate gas pipeline facility and results in any of the following" three outcomes: a death; personal injury requiring inpatient hospitalization; and/or estimated property damage of \$50,000 or more, which is calculated as the sum of four items listed in the rule.
- (5) The proposed revision to Rule 4901:1-16-01(G), O.A.C., adds a potential fourth outcome to the list of results, namely the unintentional estimated gas loss of three million cubic feet or more, and revises the components for calculating property

¹ OGA states that it is representing its members, excluding Duke Energy Ohio, Inc.

damages. As stated in the October 18, 2011, entry, these revisions were proposed so that the definition set forth in the rule would more closely mirror the changes made in the GPS regulations contained in C.F.R. Part 191.3.

- (6) With regard to Rule 4901:1-16-01(G), O.A.C., OGA offers that the Commission's Staff applied a definition of incident that is contrary to state and federal law in its investigation in Case No. 11-3636-GA-GPS, *In the Matter of the Investigation of Duke Energy Ohio, Inc., Relative to Its Compliance with the Natural Gas Pipeline Safety Standards and Related Matters*. Therefore, OGA submits that, in order to alleviate any future controversy about what constitutes an incident, the Commission should resolve this issue in this docket.
- (7) Initially, the Commission notes that neither OGA nor any other entity objects to the definition of incident set forth in the revision to Rule 4901:1-16-01(G), O.A.C., attached to the October 18, 2011, entry. Rather, OGA is asking the Commission to interpret the definition of incident within this generic docket. While the Commission appreciates OGA's comment, it would not be appropriate for us to speculate on the potential application of the term incident outside of a substantive case before the Commission, which would provide case-specific, factual information upon which we could make such a determination. Therefore, the Commission finds that Rule 4901:1-16-01(G), O.A.C., should be revised as set forth in the attachment to this order.
- (8) The second proposed revision would replace the February 2, 2010, date in paragraph (D) of Rule 4901:1-16-02, O.A.C., with August 15, 2011, so that the rule incorporates recent changes to the C.F.R. There were no objections filed with regard to updating the date contained in this rule; therefore, the Commission finds that the rule should be revised as set forth in the attachment to this order.

It is, therefore,

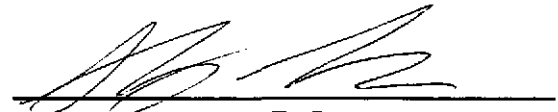
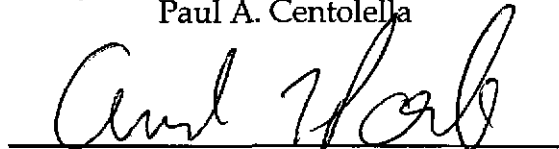
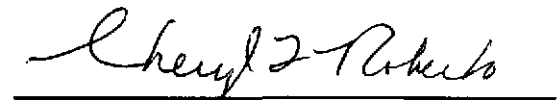
ORDERED, That the attached Rules 4901:1-16-01 and 4901:1-16-02, O.A.C., be adopted. It is, further,

ORDERED, That the rules attached to this finding and order be filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State, in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the adopted rules be effective on the earliest day permitted by law. Unless otherwise ordered by the Commission, the review date for the rules in Chapter 4901:1-16, O.A.C., remains September 30, 2014. It is, further,

ORDERED, That a copy of this finding and order, and the attachment, be served upon all interested persons of record.

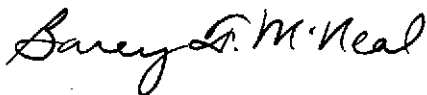
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman
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Barcy F. McNeal
Secretary

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4901:1-16-01 Definitions.

As used in this chapter:

- (A) "Chief" means the chief of the gas pipeline safety section of the commission or his/her designee.
- (B) "Commission" means the public utilities commission of Ohio.
- (C) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section 3733.01 of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track.
- (D) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.
- (E) "Gathering line" is determined in the same manner as in 49 C.F.R. 192.8 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- (F) "Gas pipeline safety (GPS) proceeding" means a commission-ordered investigation of any incident, violation, or possible noncompliance with the pipeline safety code.
- (G) "Incident" means an event that involves a release of gas from an intrastate gas pipeline facility and results in any of the following:
 - (1) A death.
 - (2) Personal injury requiring inpatient hospitalization.
 - (3) Unintentional estimated gas loss of three million cubic feet or more.
 - ~~(3)-(4)~~ Estimated property damage of fifty thousand dollars or more, excluding the cost of gas lost, which is the sum of:
 - (a) The estimated cost of repairing and/or replacing the physical damage to the pipeline facility.
 - (b) The cost of material, labor, and equipment to repair the leak, including meter turn-off, meter turn-on, and light up.
 - ~~(c)-(c)~~ The cost of gas lost by an operator or person, or both. Cost of gas lost shall not include the cost of gas in a planned operational release of gas by an operator, which is performed in compliance with the pipeline safety code.

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- (L) "Pipeline" means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.
- (M) "Pipeline safety code" means 49 C.F.R 40, 191, 192, and 199 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code; sections 4905.90 to 4905.96 of the Revised Code; this chapter; and commission orders issued thereunder.
- (N) "Safety audit" is defined as set forth in section 4905.90 of the Revised Code.
- (O) "Safety inspection" includes the following inspections, surveys, and testing of a master meter system which are authorized by the pipeline safety code, and includes mapping, if accurate maps are not available from the operator, and pipe locating, if the operator could not locate pipelines in its system.
 - (1) Testing of cathodic protection of metallic pipelines.
 - (2) Sampling of combustible gas to determine the proper concentration of odorant in distribution pipelines, unless records of the natural gas company performing the safety inspection show that the concentration of odorant in the gas transported to or near the master meter system conforms with the pipeline safety code.
 - (3) Gas leak surveys.
 - (4) Inspection and servicing of pressure regulating devices.
 - (5) Testing or calculation of required capacity of pressure relief devices.
 - (6) Inspection and servicing of critical valves.
 - (7) Inspection of underground vaults housing pressure regulating/limiting equipment and ventilating equipment.
- (P) "Staff" means the commission employees to whom responsibility has been delegated for enforcing and administering the gas pipeline safety requirements contained in this chapter and the Revised Code.
- (Q) "Synthetic Natural Gas" means gas formed from feedstocks other than natural gas, including coal, oil, or naptha.
- (R) "Transportation of gas" means:
 - (1) The gathering, transmission, or distribution of gas by pipeline, or the storage of gas within this state.

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4901:1-16-02 Purpose and scope.

- (A) The rules contained in this chapter prescribe:
 - (1) Gas pipeline safety and drug and alcohol testing requirements to protect the public safety.
 - (2) Procedures for the staff to administer and enforce the pipeline safety code.
- (B) This chapter also governs gas pipeline safety proceedings to:
 - (1) Investigate and determine an operator's compliance with the pipeline safety code.
 - (2) Investigate and determine whether an operator's intrastate gas pipeline facility is hazardous to human life or property, as provided in 49 U.S.C. 60112, as effective on the date referenced in paragraph (D) of this rule.
 - (3) Review settlement agreements and stipulations by the staff and the operator.
 - (4) Issue and enforce compliance orders.
 - (5) Issue emergency orders without notice or prior hearing when immediate action is needed to protect the public safety.
 - (6) Assess forfeitures.
 - (7) Direct the attorney general to seek enforcement of commission orders, including orders assessing forfeitures, and to seek appropriate remedies in court to protect the public safety.
- (C) All operators shall comply with the rules of this chapter.
- (D) 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 ~~February 2, 2010~~ August 15, 2011.
- (E) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.