

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF THE GAS PIPELINE SAFETY
RULES IN CHAPTER 4901:1-16 OF THE
OHIO ADMINISTRATIVE CODE.

CASE NO. 19-47-GA-ORD

FINDING AND ORDER

Entered in the Journal on November 18, 2020

I. SUMMARY

{¶ 1} The Commission adopts the proposed amendments to Ohio Adm.Code Chapter 4901:1-16 regarding the Commission's rules for gas pipeline safety, as determined in this Finding and Order.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} R.C. 111.15(B) and R.C. 106.03(A) require all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The Commission has opened this docket in order to review the gas pipeline safety rules in Ohio Adm.Code Chapter 4901:1-16.

{¶ 3} R.C. 106.03(A) requires that the Commission determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;

- (d) Incorporate a text or other material by reference and, if so, whether the citation accompanying the incorporation by reference would reasonably enable the Joint Committee on Agency Rule Review (JCARR) or a reasonable person to whom the rules apply to find and inspect the incorporated text or material readily and without charge and, if the rule has been exempted in whole or in part from R.C. 121.71 to 121.74 because the incorporated text or material has one or more characteristics described in R.C. 121.75(B), whether the incorporated text or material actually has any of those characteristics;
- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determined under R.C. 107.52;
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and
- (h) Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 4} In addition, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against a business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative (CSI) office the draft rules and the BIA.

{¶ 5} In accordance with R.C. 121.95(F), a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions.

B. Procedural History

{¶ 6} The Commission held a workshop in this proceeding on February 14, 2019, pursuant to Entry issued on January 9, 2019, in order to elicit feedback on Ohio Adm.Code Chapter 4901:1-16. The purpose of the workshop was to allow stakeholders to propose their own revisions to the rules for consideration. Approximately 20 interested stakeholders attended the workshop.

{¶ 7} Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-16 and, following its review, proposed amendments to Ohio Adm.Code 4901:1-16-02, 4901:1-16-04, 4901:1-16-05, 4901:1-16-06, 4901:1-16-08, and 4901:1-16-11. The remaining rules in the chapter were, under Staff's proposal, to remain unchanged.

{¶ 8} By Entries issued on August 14, 2019, and August 30, 2019, the Commission ordered all interested parties to file comments and reply comments concerning Staff's proposed revisions to Ohio Adm.Code Chapter 4901:1-16. Initial and reply comments were due by September 27, 2019, and October 18, 2019, respectively.

{¶ 9} Consistent with the August 30, 2019 Entry, written comments were timely filed by the Village of Evendale (Evendale), Energy Transfer LP (ET), Northeast Ohio Natural Gas Corp. (NEO), and the Ohio Gas Association (OGA) in response to Staff's proposed revisions. Reply comments were then filed on October 18, 2019, by OGA. Additionally, several public comments were filed in this docket by Ohio constituents.

C. Comments on Staff's Proposed Revisions to Ohio Adm.Code Chapter 4901:1-16

{¶ 10} Before addressing the individual rules, the Commission thanks all participants for their thoughtful contributions toward the development of these rules and the comments

and reply comments submitted in this proceeding. In some instances, we will be making changes to the structure and content of the rules proposed by Staff, often at the suggestion of the comments that we received in this docket and during the workshop. However, due to the volume of materials and time constraints, we will not attempt to address every issue or suggestion raised. In certain instances, we may have incorporated suggested changes into our rules or addressed concerns without expressly acknowledging the source of the suggestion in this Finding and Order. To the extent that a comment is not specifically addressed in this Finding and Order, it has been rejected.

{¶ 11} Ohio Adm.Code 4901:1-16-01. Staff did not propose to amend Ohio Adm.Code 4901:1-16-01.

{¶ 12} Evendale recommends that the Commission adopt definitions for distribution (high and low pressure) and transmission pipeline with accompanying criteria relating to the size and pressure of each classification.

{¶ 13} The Commission denies Evendale's recommendation, given that this chapter has already adopted certain portions of the gas pipeline safety regulations of the United States Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA), as exhibited by Ohio Adm.Code 4901:1-16-03(A). Specifically, 49 C.F.R. 192.3 defines, among other terms, "distribution line," "transmission line," "high-pressure distribution system," and "low-pressure distribution system." Pursuant to Ohio Adm.Code 4901:1-16-03(A), the Commission has adopted these definitions.

{¶ 14} Additionally, ET states that the terms "service line" and "service failure" should be defined, as they are mentioned several times throughout the proposed rules. ET believes that, if these terms are intended to be defined in accordance with distribution lines as defined in 49 C.F.R. 192.3, then the Commission should clarify this correlation in the proposed language.

{¶ 15} Similarly, we decline to adopt ET's recommendation with respect to "service line" because 49 C.F.R. 192.3 defines "service line" and this definition has been adopted by the Commission pursuant to Ohio Adm.Code 4901:1-16-03(A). We also reject ET's recommendation to define "service failure," given that Ohio Adm.Code 4901:1-16-05(A)(2) defines a service failure to include the "interruption of service to one hundred or more customers for a period of two hours or more." To add additional definitions for the above terms would be redundant and contradict the purpose of the "2-for-1" threshold required by R.C. 121.95, given that the Commission has already adopted 49 C.F.R. 192.3 and defined, within Ohio Adm.Code Chapter 4901:1-16, "service failure."

{¶ 16} **Ohio Adm.Code 4901:1-16-02.** Paragraph (D) provides that each citation in Ohio Adm.Code Chapter 4901:1-16 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 August 1, 2016. To incorporate recent federal changes, Staff recommended the date in paragraph (D) be updated to August 1, 2019. The Commission finds it appropriate to update the date to November 1, 2020, and the rule has been amended accordingly.

{¶ 17} Evendale believes that Ohio Adm.Code 4901:1-16-02 should reference R.C. 4905.90 through 4905.96, R.C. Chapter 4906, and 49 C.F.R. 190, 191, 192, and 199, as they relate to gas pipeline safety.

{¶ 18} The Commission denies Evendale's recommendation, given that Ohio Adm.Code Chapter 4901:1-16 has already adopted certain portions of PHMSA's gas pipeline safety regulations, as exhibited by Ohio Adm.Code 4901:1-16-03(A). Furthermore, R.C. 4905.90 through 4905.96 and R.C. Chapter 4906 are read in tandem with Ohio Adm.Code Chapter 4901:1-16. To reference and incorporate herein R.C. 4905.90 through 4905.96, R.C. Chapter 4906, and 49 C.F.R. 190, 191, 192, and 199, as they relate to gas pipeline safety, would be redundant and contradict the purpose of the "2-for-1" threshold required by R.C. 121.95.

{¶ 19} Ohio Adm.Code 4901:1-16-03. Staff did not propose to amend Ohio Adm.Code 4901:1-16-03.

{¶ 20} Evendale recommends that the Commission adopt certain PHMSA regulations. Specifically, Evendale moves for the adoption of: (1) a definition for high pressure/high capacity distribution lines that outlines safety standards; (2) setbacks that should limit the proximity of proposed pipelines to existing homes or businesses; and (3) shutoff valves to prevent or mitigate the consequences of pipeline failure in high consequence areas.

{¶ 21} We find it unnecessary to adopt Evendale's recommendation. As mentioned above, 49 C.F.R. 192.3 defines "distribution line," "transmission line," "low-pressure distribution system," and "high-pressure distribution system." We believe that PHMSA has adequately defined and outlined the aforementioned terms. Given that the Commission has adopted 49 C.F.R. Part 192 pursuant to Ohio Adm.Code 4901:1-16-03(A), the restatement of definitions and adoption of limitations would be redundant and contradict the purpose of the "2-for-1" threshold required by R.C. 121.95. Additionally, we believe that the issue of setbacks is better suited for the Ohio Power Siting Board (Board) rules review. Lastly, with respect to shutoff valves, 49 C.F.R. 192.747 details valve maintenance and safe operations of a distribution system, and 49 C.F.R. 192.745 details valve maintenance and safe operations of transmission lines. Both rules require that valves must be checked and serviced yearly and require the operator to take "prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve." Additionally, the term "high consequence area" is defined within 49 C.F.R. 192.903 and applies to transmission lines. As a final point, while 49 C.F.R. 192.179 covers the installation of block valves for transmission lines, 49 C.F.R. 192.935 requires operators to consider installing automatic shutoff valves or remote control valves for transmission lines in high consequence areas based on an assessment of risk.

{¶ 22} Ohio Adm.Code 4901:1-16-04. Evendale suggests that operators be required to provide maps of their pipelines to local communities.

{¶ 23} We decline to adopt Evendale’s recommendation, given that Ohio Adm.Code 4901:1-16-04 already requires operators to establish and maintain maps necessary to ensure compliance with the pipeline safety code and to keep such maps readily available for inspection, examination, and copying by the Commission, which is tasked with enforcing the pipeline safety code in the state of Ohio. As a final note, the release of operators’ maps to the public presents a security concern, as maps of pipeline infrastructure often include proprietary, confidential, or security-sensitive data that is exempt from public disclosure.

{¶ 24} In response to recent Commission investigations relative to compliance with Ohio Adm.Code Chapter 4901:1-16 in Case Nos. 15-1351-GA-GPS and 19-452-GA-GPS, Staff proposes the addition of a new paragraph (J), which would require each operator to have a plan for abandoning inactive service lines and have a copy of said plan available for inspection. Additionally, Staff proposes abandonment procedures for inactive service lines for which there is no prospect of reuse or reasonable prospect for future use. Lastly, with respect to unrecorded inactive service lines, Staff proposes to require an operator to abandon an unrecorded inactive service line that is leaking immediately, and if not leaking, the operator should be required to abandon as soon as practicable but not more than ten days after discovery.

{¶ 25} Regarding the remaining rules within Ohio Adm.Code 4901:1-16-04, Staff proposes to correctly spell the term “operator” within paragraph (I). As a final matter, Staff recommends that the requirements for the reevaluation of repaired or reclassified leaks as described in paragraph (I)(1) apply to below grade hazardous leaks. This proposed amendment was made in response to the public comments received during the rules workshop held in this proceeding on February 14, 2019.

{¶ 26} NEO does not support the adoption of Staff’s proposed amendments with respect to the abandonment of inactive service lines. Specifically, NEO suggests inserting

the word “recorded” at the beginning of paragraphs (J)(1) and (J)(2) to make clear that these provisions specifically apply to service lines that the utility is aware of. Additionally, NEO argues that the proposed time frames to abandon unrecorded inactive services lines defined in (J)(4) are too short to make adherence feasible. Therefore, NEO suggests that, when an unrecorded inactive service line is leaking, rather than abandoning immediately, it should be abandoned in accordance with the leak grade classification. Furthermore, rather than requiring an unrecorded inactive service line that is not leaking to be abandoned within ten days after discovery, NEO suggests that the line be abandoned in accordance with paragraphs (J)(1) and (J)(2).

{¶ 27} With respect to NEO’s first recommendation – insert the word “recorded” at the beginning of paragraphs (J)(1) and (J)(2) – the Commission clarifies that “unrecorded” is now outlined within paragraph (J)(4). Furthermore, the Commission modified paragraph (J)(4) to afford an operator up to 12 months to abandon an unrecorded inactive service line. Additionally, unrecorded service lines that are not abandoned immediately upon discovery must be fully located and leak surveyed within ten days of discovery and incorporated into the operator’s service area maps until they are properly abandoned. We believe that these modifications satisfy NEO’s request, while also maintaining communication with all parties and keeping safety as the primary focus with respect to unrecorded inactive service lines.

{¶ 28} NEO believes that it is unclear what constitutes a “below grade hazardous” leak, given that the term is undefined regarding Staff’s proposed amendment to Ohio Adm.Code 4901:1-16-04(I)(1). NEO states that the grade system is meant to define the hazardous level, and the definition of hazardous needs to be a term that operators understand. NEO suggests that the proposed amendment should be moved to a new paragraph (I)(4), if the intent is for this reevaluation requirement to apply to all below grade hazardous leaks.

{¶ 29} The Commission clarifies that “below grade hazardous” leak means an underground hazardous leak and adopts Staff’s recommendation with respect to Ohio Adm.Code 4901:1-16-04(I) and (I)(1).

{¶ 30} OGA supports the Commission’s focus on safety for inactive service lines and acknowledges that there are threats and risks related to inactive service lines. In this respect, OGA recommends that the Commission adopt a risk-based approach in dealing with inactive service line abandonment. OGA explains that the American Gas Association recently recommended that all of its members adopt a pipeline safety management system (PSMS). OGA states that one of the hallmarks of PSMS is a commitment to evaluating and acting on threats and risks based on probability and consequence of an incident. Additionally, OGA believes that viewing the inactive customer service line abandonment through a risk-based lens is also consistent with the principles undergirding OGA member companies’ distribution integrity management plan (DIMP). The DIMP rules make clear that an operator cannot treat all risks alike. OGA requests that the Commission consider an approach that recognizes the different safety risks of inactive service lines dependent on varying circumstances.

{¶ 31} OGA provides a table that illustrates OGA’s recommended changes to the proposed rules and recommends that the Commission incorporate the proposed table into the text of adopted Ohio Adm.Code 4901:1-16-04(J) for a concise and complete reference guide if OGA’s version of the proposed rules is accepted. OGA opines that the proposed rules should more closely reflect varying risks depending on circumstances. Specifically, OGA argues that inside meters should be distinguished from and treated differently than outside meters with respect to the abandonment of inactive service lines. Additionally, OGA wants the Commission to consider the reduced risks associated with plastic service lines equipped with excess flow valves (EFVs), stating that PHMSA recognizes the safety benefits of EVFs to reduce the risk of explosions in natural gas pipelines by shutting off unplanned, excessive gas flows.

{¶ 32} We decline to adopt OGA's proposed table. However, the modifications made to paragraph (J) afford the operator with discretion to recognize and treat the different threats and safety risks of inactive service lines dependent on varying circumstances. We note that operators, through their respective DIMPs, will determine whether there is a reasonable prospect for reuse. It is our expectation that operators are committed to evaluating and acting on threats and risks based on probability and consequence of an incident, and the newly modified paragraph (J) reflects these sentiments.

{¶ 33} OGA also argues that the Commission should provide adequate time to abandon an inactive service line regardless of the prospect for reuse. OGA requests 12 months to abandon when an inactive service line has no prospect for reuse and believes that a blanket requirement of six months does not provide enough time to abandon facilities, including inactive service lines. OGA states that the extra time would be consistent with the current rules that extend the time to remedy grade 2 leaks. If there is a prospect for reuse, OGA believes that the Commission should adopt a review frequency time frame of 18 months, not to exceed 24 months.

{¶ 34} The Commission has modified paragraph (J)(2) to provide operators, beginning 48 months after the effective date of this rule, up to 12 months to abandon an inactive service line, unless the operator determines there is a reasonable prospect for reuse. We note that an operator can always seek to waive this rule requirement.

{¶ 35} With respect to proposed paragraph (J)(3), OGA states that it supports this explicit acknowledgement and OGA members will follow the pipeline safety rules for repairs of leaks on inactive service lines regardless of length of inactivity. However, in regards to proposed paragraph (J)(4), OGA proposes to amend the rule to require: (1) recording of a service line in the operator's system, and (2) abandonment of all previously unrecorded inactive service lines under the leakage rules, but with an outer bounds of 24 months.

{¶ 36} As mentioned above, paragraph (J)(4) has been modified to provide an operator with an appropriate amount of latitude with respect to unrecorded inactive service lines. Specifically, an unrecorded inactive service line shall be abandoned as soon as practicable but no later than 12 months after discovery, and unrecorded service lines that are not abandoned immediately upon discovery must be fully located and leak surveyed within ten days of discovery and incorporated into maps of the operator's service area until they are properly abandoned.

{¶ 37} As a final matter, OGA requests that the Commission adopt a transition period to implement these new rules in order to balance safety with an appropriate implementation pace. OGA believes there will be significant changes to the rules related to inactive service lines if the Commission adopts OGA's recommended comments. In order to allow for an orderly and safe transition to the new rules on inactive service lines, OGA requests that the Commission delay the effective date of paragraph (J) five years from the date the rules are legally effective. OGA argues that its members need adequate time to integrate the aforementioned changes into their operations, and specifically to integrate the timing requirements into procedures already in place for abandonment of inactive service lines. Of particular note, OGA disagrees with the BIA that the impact is not "adverse" or the cost of compliance would "be small, if there is any impact at all." OGA believes that a five-year timeline would allow OGA members and all operators sufficient time to plan for the changes and properly balance work flows, capital allocations, and compliance activities to meet the new deadlines contained in paragraph (J), while maintaining safety on their systems.

{¶ 38} We deny OGA's request for a five-year delay. However, the Commission has modified: paragraph (J) to include a 24-month delay; paragraph (J)(2) to include a 48-month delay in conjunction with a maximum of 12 months to abandon inactive service lines unless the operator determines that there is a reasonable prospect for future use; and paragraph (J)(4) to provide an operator with a maximum of 12 months to abandon an unrecorded service line and up to ten days to fully locate and survey a leak upon discovery. We believe

these time frames provide operators adequate time to integrate the modifications to this rule, while maintaining safety on their systems.

{¶ 39} Ohio Adm.Code 4901:1-16-05. Staff recommends the removal of paragraph (B)(4) to eliminate redundancy. Additionally, Staff proposes the addition of new paragraph (D)(1)(c), which would require gas gathering/processing plant pipeline operators to provide total mileage of gas gathering piping operated in Ohio and counties of operation in the 24-hour contact report.

{¶ 40} Evendale recommends that the Commission require operators to contact local police and fire departments or the regional emergency management group to alert them of active leaks within a community. Evendale states that it often receives phone calls regarding the smell of natural gas and is unaware if the utility company is responding or aware of the issue.

{¶ 41} The Commission declines to adopt Evendale's recommendation, given that the Commission believes Ohio Adm.Code 4901:1-16-04(I) appropriately and adequately details the process of how and when an operator shall treat a leak. Additionally, Ohio Adm.Code 4901:1-16(5)(A) requires an operator to notify the state of Ohio on all incidents and service failures as defined in Ohio Adm.Code 4901:1-16-01. This requirement also includes any telephone notice which is required to be made to the United States Department of Transportation. Furthermore, 49 C.F.R. 192.615, which the Commission has adopted by virtue of Ohio Adm.Code 4901:1-16-03, details emergency plans and procedures that each operator must establish. We note that this rule specifically requires an operator to establish and maintain adequate means of communication with appropriate fire, police, and other public officials.

{¶ 42} 49 C.F.R. 192.616, also adopted by the Commission pursuant to Ohio Adm.Code 4901:1-16-03, requires an operator to develop and implement a written continuing public education program that must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation

related activities. Furthermore, this program must also include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.

{¶ 43} To adopt Evendale's above recommendations would be redundant and contradict the purpose of the "2-for-1" threshold required by R.C. 121.95, given that the Commission has already adopted 49 C.F.R. 192.615 and 192.616.

{¶ 44} ET states that it shares the Commission's commitment to pipeline safety but takes issue with the proposed requirements for telephone notice of incidents and service failure. Specifically, ET states that, based on operating experience and managing emergency situations, a 30-minute reporting deadline as proposed is not practicable in many situations. ET notes this requirement is problematic because it is very difficult to determine the amount of gas loss, property damage, and the impact to employees or the public with regard to injuries within a 30-minute time frame. ET suggests that the Commission adopt PHMSA's requirement detailed in 49 C.F.R. 191.5(a)(1) and (2), which requires operators to report emergency situations at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery. ET believes this rule expands the reporting criteria and recommends that the Commission adopt 49 C.F.R. 191.22(C)(1).

{¶ 45} With respect to ET's recommendations, the Commission emphasizes that, pursuant to Ohio Adm.Code 4901:1-16-05(A)(1), operators are required to notify the state of Ohio on all incidents within 30 minutes of discovery *unless* notification within that time is impracticable under the circumstances. This language extends latitude with respect to an operator's reporting obligation, and the exception is intended to provide operators with flexibility in the timing of the notification. By affording this flexibility to operators, the Commission recognized, and as OGA points out, that there may be circumstances in which notification within 30 minutes may prove impractical and, in those situations, we expect only that reporting will occur as soon as possible.

{¶ 46} We note that, on August 9, 2016, the Governor of Ohio issued Executive Order 2016-04K, which created and implemented a one-call emergency notification system for oil

and gas related emergencies. By Entry dated August 12, 2016, in Case No. 16-1712-GA-ORD, the Commission determined that Ohio Adm.Code 4901:1-16-05(A) should be amended on an emergency basis pursuant to R.C. 111.15(B)(2), in order to effectuate the one-call emergency notification system and the more expeditious reporting under that system. In the Entry, the Commission found that the amendment of Ohio Adm.Code 4901:1-16-05(A) on an emergency basis was necessary for the immediate enhanced preservation of the health and safety of the citizens of Ohio. Noting that rules adopted on an emergency basis are effective for 120 days after filing with the Secretary of State, the Legislative Service Commission (LSC), and JCARR, the Commission also initiated a rulemaking proceeding to consider on an expedited basis whether the amendments to Ohio Adm.Code 4901:1-16-05(A) should be permanently adopted. The amendment to Ohio Adm.Code 4901:1-16-05(A), which included the 30-minute reporting requirement, was permanently adopted by Finding and Order issued on September 14, 2016. *In re Amendment of Ohio Adm.Code 4901:1-16 Regarding Gas Pipeline Safety*, Case No. 16-1712-GA-ORD, Finding and Order (Sep. 14, 2016).

{¶ 47} As a final matter, the Commission modifies Ohio Adm.Code 4901:1-16-05(D)(1)(c) to correctly spell pipeline and adopts Staff's proposed amendments to Ohio Adm.Code 4901:1-16-05.

{¶ 48} **Ohio Adm.Code 4901:1-16-06.** Paragraph (B) currently requires an operator to submit three reports at different intervals for each important addition to its intrastate gas pipeline facilities. Staff recommends that operators be required to submit only two reports, with the first report due no later than 14 days and not sooner than 60 days before construction work will start, and the second report due no later than seven days after construction work has been completed. Additionally, Staff recommends the removal of paragraph (C) to eliminate redundancy.

{¶ 49} Evendale questions why the number of required construction reports was reduced to two. Evendale believes it would be prudent to have more reports, not less, given the public interest in ensuring proper installation.

{¶ 50} With respect to the reporting window outlined in proposed Ohio Adm.Code 4901:1-16-06(B)(1), ET suggests that the new time frame (the first report not sooner than 60 days before construction work starts) conflicts with existing federal reporting language, and as written, could lead to confusion. Accordingly, ET suggests the Commission adopt 49 C.F.R. 191.22.

{¶ 51} We deny the recommendations made by Evendale and ET and adopt Staff's proposed amendments. Specifically, the Commission notes that the construction reports were reduced to two reports because the second report, due no later than seven days after construction work has started, was redundant. This time frame is necessary in order to provide the Commission with the most up-to-date reports to reflect a particular construction interval. In practice, knowledge of when an operator starts and stops construction sufficiently meets the Staff's need to assess construction without overburdening the system with excessive paperwork. This redundancy would contradict the purpose of the "2-for-1" threshold required by R.C. 121.95. Lastly, with respect to ET's recommendation that the Commission adopt 49 C.F.R. 191.22, we have determined that, in order to adequately inspect new construction on gas distribution systems, Staff would need reports on projects that are not covered by 49 C.F.R. 191.22.

{¶ 52} **Ohio Adm.Code 4901:1-16-08.** Staff recommends, in paragraph (B), to include the option for Staff to make service upon an operator or gas gathering/processing plant pipeline operator via electronic mail. This proposed amendment was made in response to the public comments received during the rules workshop held in this proceeding on February 14, 2019.

{¶ 53} No other interested stakeholders filed comments in response to Staff's recommendations to Ohio Adm.Code 4901:1-16-08. Accordingly, upon review and consideration, we adopt Staff's recommendations.

{¶ 54} **Ohio Adm.Code 4901:1-16-11.** Paragraph (B) currently provides that, if a settlement agreement requires the payment of a forfeiture of \$1,000 or less, the agreement shall be binding upon the Commission and the operator upon its execution. Staff recommends an increase of the forfeiture amount from \$1,000 to \$10,000 to be consistent with other Commission forfeiture amounts. Staff also recommends a corresponding change to paragraph (E).

{¶ 55} No other interested stakeholders filed comments in response to Staff's recommendations to Ohio Adm.Code 4901:1-16-11. Accordingly, upon review and consideration, we adopt Staff's recommendations.

{¶ 56} **Ohio Adm.Code 4901:1-16-15.** Staff did not propose to amend Ohio Adm.Code 4901:1-16-15.

{¶ 57} ET takes issue with the Commission regulating low-stress gas gathering pipelines and processing plant stub pipelines. ET argues that low-stress pipes are less likely to impact property, health, safety, and the environment. ET suggests that the Commission perform a cost-benefits analysis using incident data on low-stress pipelines prior to any regulation; specifically, ET suggests using the same criteria PHMSA proposed in Phase 3 of the Gas Mega Rule. Lastly, ET suggests that the Commission wait for PHMSA's proposed new rule publication in order to promote regulatory consistency, prevent misalignment, and ensure adherence to the same guidelines.

{¶ 58} We reject ET's recommendations. We note that, although the Commission works in partnership with PHMSA, the Commission is a different organization from PHMSA that has separate objectives with respect to pipeline infrastructure. PHMSA is part of the United States Department of Transportation and enforces the gas pipeline safety

regulations. The Commission has adopted the gas pipeline safety regulations pursuant to its authority in R.C. 4905.90 through 4905.96. The Commission enforces the gas pipeline safety regulations for intrastate piping in Ohio through a cooperative agreement with PHMSA.

{¶ 59} The requirements for low-stress gathering lines are specific to Ohio and are described in R.C. 4905.911. The language within Ohio Adm.Code 4901:1-16-15 regarding low-stress gathering lines expands on what is already in R.C. 4905.911.

{¶ 60} As a general matter, OGA submitted reply comments in response to the public comments and the letter from Evendale. While OGA appreciates the safety concerns raised within their respective comments and believes they are well intentioned, OGA states that there will be many unintended material consequences to implementing many of the suggestions. Furthermore, OGA believes that the comments contain concepts that are better suited for Board rules rather than the gas pipeline safety rules. Additionally, the comments suggest requirements that would exceed those under the PHMSA rules. OGA argues that, for the aforementioned reasons and because many of the comments lack any proposed rule language, OGA does not have sufficient detail to respond. OGA states that it has no reply comments to the comments submitted by NEO or ET.

{¶ 61} The Commission appreciates the safety concerns raised within the public comments and letter from Evendale. Many of the public comments referred to Board Case No. 16-253-GA-BTX, which was approved by the Board on November 21, 2019. Evendale, as an intervening party in Case No. 16-253-GA-BTX, filed an application for rehearing of the November 21, 2019 Order on December 23, 2019. The Board denied the application for rehearing on February 20, 2020. Evendale, along with others, filed an appeal of the November 21, 2019 Order on April 15, 2020, currently pending with the Ohio Supreme Court.

{¶ 62} As mentioned in the BIA, the siting process of pipeline facilities in Ohio is separate from the Commission's review of the gas pipeline safety rules detailed in Ohio

Adm.Code Chapter 4901:1-16. To that end, the Commission considered all comments provided by Evendale and members of the public. We agree with OGA that, while these comments appear to be well intentioned, they are better suited for the Board rules and applications rather than this chapter's rule review. Furthermore, we would like to point out that many of the public commenters discussed safety. To address their concerns and suggestions, Staff proposed, and the Commission modified and highlighted several rules with respect to safety. Of particular note, a new paragraph (J) within Ohio Adm.Code 4901:1-16-04 requires each operator to have a plan for abandoning inactive service lines, among other requirements for service line abandonment. This amendment was a direct result of recent Commission investigations relative to compliance with Ohio Adm.Code Chapter 4901:1-16 in Case Nos. 15-1351-GA-GPS and 19-452-GA-GPS and highlights the Commission's concerns regarding safety. Additionally, the Commission notes that many of the public comments detail a number of safety concerns. We acknowledge the public's interest in these issues and believe that these safety concerns are adequately addressed within the PHMSA's gas pipeline safety regulations, and the Commission has adopted the gas pipeline safety regulations pursuant to its authority in R.C. 4905.90 through 4905.96. As the Commission has often recognized, Staff works diligently with all operators to ensure their compliance with the gas pipeline safety requirements. If issues of concern are not immediately resolved by the operator at issue, the Commission will undertake any action necessary to investigate the situation and reach an appropriate resolution, including the initiation of a formal docket to audit the gas pipeline safety practices and procedures of any such operator. *See, e.g., In re Columbia Gas of Ohio, Inc.*, Case No. 19-452-GA-GPS, Finding and Order (Feb. 27, 2019) at ¶ 15.

III. CONCLUSION

{¶ 63} In making its rules, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules. The Commission

has evaluated Ohio Adm.Code Chapter 4901:1-16 and recommends amending the rules as demonstrated in the attachment to this Order.

{¶ 64} An agency must also demonstrate that it has included stakeholders in the development of the rule, that it has evaluated the impact of the rule on businesses, and that the purpose of the rule is important enough to justify the impact. The agency must seek to eliminate excessive or duplicative rules that stand in the way of job creation. Moreover, the agency must remove two or more existing regulatory restrictions for every new regulatory restriction added. The Commission has included stakeholders in the development of these rules, has sought to eliminate excessive or duplicative rules that stand in the way of job creation, and has adhered to the requirement regarding the removal of regulatory restrictions.

{¶ 65} Accordingly, at this time, the Commission finds that amendments to Ohio Adm.Code 4901:1-16-02, -04, -05, -06, -08, and -11 should be adopted and filed with JCARR, the Secretary of State, and LSC. The Commission also finds that no changes should be made to Ohio Adm.Code 4901:1-16-01, -03, -07, -09, -10, -12, -13, -14, and -15. In order to avoid needless production of paper copies, the Commission will serve a paper copy of this Order only and will make the rules, as well as the BIA, available online at the Commission's website: <https://puco.ohio.gov/wps/portal/gov/puco/documents-and-rules/resources/rules>. All interested persons may download the rules and the BIA from the above website, or contact the Commission's Docketing Division to be sent a paper copy.

IV. ORDER

{¶ 66} It is, therefore,

{¶ 67} ORDERED, That amended Ohio Adm.Code 4901:1-16-02, -04, -05, -06, -08, and -11 be adopted. It is, further,

{¶ 68} ORDERED, That Ohio Adm.Code 4901:1-16-01, -03, -07, -09, -10, -12, -13, -14, and -15 be adopted with no changes. It is, further,

{¶ 69} ORDERED, That the adopted rules be filed with JCARR, the Secretary of State, and LSC, in accordance with Divisions (D) and (E) of R.C. 111.15. It is, further,

{¶ 70} ORDERED, That the final rules be effective on the earliest date permitted. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm. Code Chapter 4901:1-16 shall be in compliance with R.C. 106.03. It is, further,

{¶ 71} ORDERED, That a copy of this Finding and Order be sent to the gas-pipeline list-serve. It is, further,

{¶ 72} ORDERED, That a copy of this Finding and Order be served upon all regulated gas, natural gas, and pipeline companies, the Ohio Consumers' Counsel, the Ohio Gas Association, the Ohio Oil and Gas Association, the Ohio Petroleum Council, the American Petroleum Institute – Ohio, and all commenters and other interested persons of record.

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

LLA/hac

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NO CHANGE

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) "Gas gathering pipeline" means a gathering line that is not regulated under the Natural Gas Pipeline Safety Act, but includes a pipeline used to collect and transport raw natural gas or transmission quality gas to the inlet of a gas processing plant, the inlet of a distribution system, or to a transmission line.
- (F) "Gas gathering/processing plant pipeline operator" means any person that owns, operates, manages, controls, or leases, a gas gathering pipeline or a processing plant gas stub pipeline. A gas gathering/processing plant pipeline operator is not an operator as defined in paragraph (P) of this rule, but a person may be both an operator and a gas gathering/processing plant pipeline operator.
- (G) "Gas pipeline safety (GPS) proceeding" means a commission-ordered investigation of any incident, violation, or possible noncompliance with the pipeline safety code.
- (H) "Gas processing plant" means a plant that processes raw natural gas into merchantable products, including transmission quality gas or natural gas liquids, and also may include a plant that treats raw natural gas to remove impurities such as carbon dioxide, helium, nitrogen, or water.
- (I) "Gathering line" and "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act.
- (J) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant,

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Utica, or Marcellus formation and the well is stimulated.

- (K) "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.
 - (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) The estimated cost of repairing and/or replacing other damaged property of the operator or others, or both.
- (L) "Intrastate gas pipeline facility" includes any new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas either wholly or partly within this state or from an interstate gas pipeline in Ohio to a direct sales customer in Ohio buying gas for its own consumption.
- (M) "MAOP" means the maximum pressure at which a pipeline or segment of a pipeline may be operated under the Natural Gas Pipeline Safety Act or under sections 4905.90 to 4905.96 of the Revised Code.
- (N) "Master meter system" means a pipeline system that distributes gas within a contiguous property for which the system operator purchases gas for resale to consumers, including tenants. Such pipeline system supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. The term includes a master meter system as defined in 49 C.F.R. 191.3, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code. The term excludes a pipeline within a manufactured home, mobile home, or a building.
- (O) "Natural Gas Pipeline Safety Act" means the Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720, 49 U.S.C.A. App. 1671 et. seq., as amended, and the rules adopted by the

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United States department of transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, including 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.

(P) "Operator" means:

- (1) A gas company as defined by division (A)(4) of section 4905.03 of the Revised Code.
- (2) A natural gas company, including a producer of gas which does business as a natural gas company pursuant to division (A)(5) of section 4905.03 of the Revised Code.
- (3) A pipeline company, when engaged in the business of transporting gas by pipeline as defined by division (A)(6) of section 4905.03 of the Revised Code.
- (4) A public utility that is excepted from the definition of "public utility" under division (B) or (C) of section 4905.02 of the Revised Code, when engaged in supplying or transporting gas by pipeline within this state.
- (5) Any person who owns, operates, manages, controls, leases, or maintains an intrastate gas pipeline facility or who engages in the transportation of gas. This includes, but is not limited to, a person who owns, operates, manages, controls, leases, or maintains a master meter system within this state.

"Operator" does not include an ultimate consumer who owns a service line on the real property of that ultimate consumer and does not include a gas gathering/processing plant pipeline operator as defined in paragraph (F) of this rule or any person that owns, operates, manages, controls, or leases a gas gathering pipeline as defined in paragraph (E) of this rule.

- (Q) "Person" means any individual, corporation, business trust, estate, trust, partnership, association, firm, joint venture, or municipal corporation and includes any trustee, receiver, assignee, or personal representative thereof.
- (R) "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.
- (S) "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.

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- (T) "Processing plant gas stub pipeline" means a gas pipeline that transports transmission quality gas from the tailgate of a gas processing plant to the inlet of an interstate or intrastate transmission line and that is considered an extension of the gas processing plant, is not for public use, and is not regulated under the Natural Gas Pipeline Safety Act.
- (U) "Raw natural gas" means hydrocarbons that are produced in a gaseous state from gas wells and that generally include methane, ethane, propane, butanes, pentanes, hexanes, heptanes, octanes, nonanes, and decanes, as well as other naturally occurring impurities like water, carbon dioxide, hydrogen sulfide, nitrogen, oxygen, and helium.
- (V) "Raw natural gas liquids" means naturally occurring hydrocarbons contained in raw natural gas that are extracted in a gas processing plant and liquefied and generally include mixtures of ethane, propane, butanes, and natural gasoline.
- (W) "Safety audit" is defined as set forth in section 4905.90 of the Revised Code.
- (X) "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.
- (Y) "Staff" means the commission employees to whom responsibility has been delegated for enforcing and administering the gas pipeline safety requirements contained in this

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chapter and the Revised Code.

- (Z) "Synthetic Natural Gas" means gas formed from feedstocks other than natural gas, including coal, oil, or naphtha.
- (AA) "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas within this state.

AMENDED

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 or a gas gathering/processing plant pipeline operator's compliance with applicable sections of the pipeline safety code.
 - (2) Investigate and determine whether intrastate gas pipeline facilities are 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 operators or by staff and gas gathering/processing plant pipeline operators.
 - (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 and gas gathering/processing plant pipeline operators shall comply with

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the applicable 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 ~~August 1, 2016~~November 1, 2020.
- (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.

NO CHANGE

4901:1-16-03 Adoption of United States department of transportation gas pipeline safety regulations.

- (A) The commission hereby adopts the gas pipeline safety regulations of the United States department of transportation contained in 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.
- (B) Telephone notice and report requirements applicable to gathering lines, pursuant to division (C) of section 4905.91 of the Revised Code are set forth in rule 4901:1-16-05 of the Administrative Code.

AMENDED

4901:1-16-04 Records, maps, inspections, ~~and~~ leak classifications, and service line abandonment.

- (A) Each operator and gas gathering/processing plant pipeline operator shall establish and maintain all plans, records, reports, information, and maps necessary to ensure compliance with applicable sections of the pipeline safety code, and keep such plans, records, reports, information, and maps in Ohio at the operator's headquarters or appropriate company office(s) readily available for inspection, examination, and copying by the commission, its staff, or its authorized representative(s).
- (B) Each operator and gas gathering/processing plant pipeline operator shall provide and make available its plans, records, reports, information, and maps, as the commission, its staff, or its authorized representative(s) may require to administer and enforce the

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pipeline safety code.

- (C) Each operator and gas gathering/processing plant pipeline operator shall permit the commission, its staff, and authorized representative(s) to: enter and inspect its premises, operations, and intrastate gas pipeline facilities; and inspect, examine, and copy its plans, records, reports, information, and maps, which the commission, its staff, or its authorized representative(s) may require to administer and enforce the pipeline safety code.
- (D) Each operator and gas gathering/processing plant pipeline operator shall make its premises, operations, and intrastate gas pipeline facilities readily accessible to the commission, its staff, and its authorized representative(s).
- (E) Except for an operator of a master meter system, each operator shall establish and maintain maps of the operator's service area which identify the operator's intrastate gas pipeline facilities, excluding service lines as defined in 49 C.F.R. 192.3 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- (F) Unless otherwise provided by this chapter, each operator and gas gathering/processing plant pipeline operator shall establish and retain records for three years to show compliance with the requirements of 49 C.F.R. 192 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- (G) Each operator shall retain records of each leak survey, as required by 49 C.F.R. 192.723 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, for five years.
- (H) Each operator shall classify all leaks utilizing leak detection equipment. As used in this rule, leak detection equipment means any device capable of detecting and measuring the concentration of natural gas in the atmosphere. The operator shall classify all hazardous leaks immediately and classify all other leaks within two business days of discovery. The operator shall classify leaks utilizing the following:
 - (1) A grade-one classification represents an indication of leakage presenting an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous.
 - (2) A grade-two classification represents an indication of leakage recognized as being nonhazardous at the time of detection, but requires scheduled repair based upon the severity and/or location of the leak.

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- (3) A grade-three classification represents an indication of leakage recognized as being nonhazardous at the time of detection and can be reasonably expected to remain nonhazardous.
- (I) Upon discovery of the corresponding leak(s) from above, each ~~operator~~operator shall take the following actions:
 - (1) Take immediate and continuous action on leaks classified as grade one to protect life and property until the condition is no longer hazardous. Continuous action is defined as having personnel at the scene of the leak with leak detection equipment attempting to locate the source of the leak and taking action to prevent migration into structures, sewers, etc. If the hazardous condition associated with the leaks classified as grade one is eliminated, such as by venting, temporary repair, etc., but the possibility of the hazardous condition returning exists, the condition must be monitored as frequently as necessary, but at least once every eight hours, to protect life and property until the possibility of the hazardous condition returning no longer exists.

Leaks classified as grade one may be reclassified by performing a physical action to the pipeline (clamp, replacement, tape wrap, etc.) or pipeline facility. Reclassification must be in accordance with the criteria in paragraph (H) of this rule and by an individual who is qualified to classify leaks under the company's operator qualification plan. Venting, holes, aerators, or soil purging of a leak are not considered physical actions to the pipeline. If a leak is reclassified after performing a physical action, the timeframe for any required repair(s) and/or reevaluation(s) at the resulting classification will be calculated from the date the leak was reclassified. All below grade ~~one~~one-hazardous leaks repaired or reclassified, other than by the replacement of the affected section of pipe, must be reevaluated after allowing the soil to vent and stabilize but not more than thirty calendar days after such physical action.

- (2) Repair or clear leaks classified as grade two no later than fifteen months from the date the leak is discovered, unless the pipeline containing the leak is replaced within twenty-four months from the date the leak is discovered. If a replacement project that will clear a leak classified as grade two is cancelled after the fifteenth month after classification of the leak(s), the associated leak(s) must be cleared within forty-five days of the cancellation of the project, not to exceed twenty-four months from the date of the leak classification. Leaks classified as grade two shall be reevaluated at least once every six months until cleared.
- (3) Reevaluate leaks classified as grade three during the next scheduled survey or within fifteen months from the date of the last inspection, whichever is sooner, and continue to

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reevaluate such leaks on that same frequency until there is no longer any indication of leakage, the leak is reclassified, or the pipeline is replaced.

- (J) Beginning twenty-four months after the effective date of this rule, each operator will have a plan for tracking and abandoning inactive service lines in accordance with 49 C.F.R. 192.727 and will have a copy of its plan available for inspection. The plan will include the following:
- (1) A service line is considered inactive and ready for abandonment when gas has not been billed to any customers served by the line for a period of thirty-six months.
- (2) Beginning forty-eight months after the effective date of this rule, inactive service lines will be abandoned within twelve months of becoming inactive as defined in paragraph (J)(1) of this rule unless the operator determines there is a reasonable prospect for future use.
- (3) Until a service line is abandoned under paragraph (J)(2) of this rule, the service line will be treated as active for the purpose of applying the requirements of the pipeline safety code.
- (4) Unrecorded inactive service lines discovered in the course of leakage surveillance, construction, maintenance or inspection of facilities will be abandoned– as soon as practicable but no later than twelve months after discovery. Unrecorded service lines that are not abandoned immediately upon discovery will also be fully located and leak surveyed within ten days of discovery and incorporated into maps of the operator’s service area until they are properly abandoned.

AMENDED

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.

- (A) Telephone notice of incidents and service failures.
- (1) Operators shall notify the state of Ohio on all incidents, as defined in rule 4901:1-16-01 of the Administrative Code, by calling 1-844-OHCALL1 (1-844-642-2551) within thirty minutes of discovery unless notification within that time is impracticable under the circumstances. This includes any telephone notice which is required to be made to the United States department of transportation pursuant to 49 C.F.R. 40, 191, 192, and

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199 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.

- (2) Operators shall notify the state of Ohio on all service failures, which involve an interruption of service to one hundred or more customers for a period of two hours or more, by calling 1-844-OHCALL1 (1-844-642-2551) within thirty minutes after discovery unless notification within that time is impracticable under the circumstances.
- (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 effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, shall be submitted concurrently to the chief.
 - (2) Within thirty days after the service failure is discovered, each operator shall submit a written report 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 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 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.
- (C) Each natural gas company and pipeline company shall register the location of all of its underground utility facilities with a protection service that serves the area where the facilities are located, as provided in division (A) of section 3781.26 of the Revised Code. "Underground utility facilities" and "protection service" shall have the same meaning as in section 3781.25 of the Revised Code.
- (D) Twenty-four hour contact report.
 - (1) Each operator and gas gathering/processing plant pipeline operator shall submit a twenty-four hour contact report to the chief not later than March fifteenth of each year. This written report shall contain:

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- (a) The name(s), business address(es), business telephone and fax number(s), and e-mail addresses of its emergency contact personnel.
- (b) Any available emergency hotline number.
- (c) For gas gathering/processing plant pipeline operators, the total mileage of gas gathering pipeline operated in Ohio and counties of operation.
- (2) Each operator and gas gathering/processing plant pipeline operator shall, within a reasonable time, notify the chief in writing of any change in emergency contact personnel name(s), business address, business telephone, fax number, emergency hotline number, and/or e-mail address of its emergency contact personnel.
- (E) To the extent necessary to carry out its responsibilities under the pipeline safety code, the commission or its staff may require testing of any intrastate gas pipeline facility which is involved in an incident. After making a good faith effort to negotiate a mutually acceptable plan with the owner of the pipeline facility, the commission or its staff may require the operator or choose an independent laboratory to test such pipeline facility.
- (F) Each operator shall establish a program to identify, repair and replace, as necessary, its cast iron distribution pipeline system which is detrimental to the public safety. This program shall include, but not be limited to, disturbing cast iron pipe, maintenance history, leak history, major street or highway reconstruction or repaving, construction activity, depth of cover, soil type, traffic loading, operating conditions, year of manufacture, type of pipe, amount of graphitization, vibrations, impact forces, earth movement, backfilling after undermining, and water leaks or sewer failures in the area.
- (G) The forms required by this rule shall be available at the commission's docketing division and electronically on the commission's website at <http://www.puco.ohio.gov>.

AMENDED

4901:1-16-06 Construction reports.

- (A) Each operator shall submit reports for each important addition of its intrastate gas pipeline facilities. As used in this rule, an "important addition" means construction or alteration of an operator's intrastate gas pipeline facility in a single project which involves an expenditure of either:
 - (1) More than five hundred thousand dollars.

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- (2) An amount which is more than ten per cent of the value of the operator's intrastate gas pipeline facility, provided such amount exceeds one hundred thousand dollars.

As used in this rule, a "single project" means the installation, construction, or alteration of a contiguous section of gas pipeline facility within a defined time-frame.

- (B) Each operator shall submit ~~three~~two reports for each important addition on the form provided by the commission. Each report shall be submitted to the chief as follows:

- (1) The first report not later than ~~twenty-one~~fourteen days and not sooner than sixty days before construction work will start.

~~(2) The second report not later than seven days after construction work has started.~~

- ~~(3)~~ (2) The ~~third~~second report not later than seven days after construction work has been completed.

~~(C) Except for an operator of a master meter system, each operator shall submit a list of important additions 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 submitted to the chief not later than March fifteenth of each year.~~

- ~~(D)~~ (C) In accordance with the training program requirements pursuant to the pipeline safety regulations, subpart N 49 C.F.R. 192.801 to 192.809, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, distribution operators shall incorporate new construction, including riser installation, as a part of their operator qualification requirements.

- ~~(E)~~ (D) The forms required by this rule shall be available at the commission's docketing division and electronically on the commission's website at <http://www.puco.ohio.gov>.

NO CHANGE

4901:1-16-07 Master meter systems and safety inspections.

- (A) Each operator of a master meter system shall establish and maintain maps which identify its distribution pipeline system.
- (B) Each operator of a master meter system shall file an annual report on its system on the form provided by the commission. This annual report shall be submitted to the chief not

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later than March fifteenth of each year. The form required by this rule shall be available at the commission's docketing division and electronically on the commission's website at <http://www.puco.ohio.gov>.

(C) Safety inspections.

- (1) Unless otherwise provided in this paragraph, each operator of a master meter system shall conduct safety inspections as required by the pipeline safety code.
- (2) The commission may direct or order a natural gas company which distributes gas to a master meter system to perform a safety inspection on that system when the public interest so requires, or when an operator of a master meter system:
 - (a) Has violated paragraph (B) or (C)(1) of this rule; or
 - (b) Requests an inspection.

The staff shall notify such natural gas company by letter and mail a copy of the notice to the operator of the master meter system. The letter shall specify the inspections, surveys, and testing required for the safety inspection of the master meter system.

- (3) Each operator of a master meter system shall permit employees and agents of the natural gas company performing the safety inspection to review the operator's maps and records.
- (4) Each natural gas company shall submit a report of its findings of the safety inspection to the chief within thirty days after the inspection.
- (D) A natural gas company may terminate service to a master meter system or a gas pipeline facility within a master meter system, in compliance with divisions (G) and (H)(1) of section 4905.94 of the Revised Code, for the following unsafe conditions, gas leaks, and other safety hazards on that system or gas pipeline facility within that system:
 - (1) Grade one leaks according to rule 4901:1-16-04 of the Administrative Code.
 - (2) A fire or explosion near or at a gas pipeline facility.
 - (3) A gas pipeline facility damaged by a natural disaster, such as flooding, or by excavation activities near or at the gas pipeline facility.
- (E) The natural gas company may recover all reasonable, actual expenses incurred for

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performing a safety inspection by direct billing the operator of the master meter system.

- (F) Tariffs.
- (1) Each natural gas company may file an application with the commission for approval of a schedule of rates and charges for its customers to recover the reasonable and actual expenses of:
 - (a) Performing safety inspections.
 - (b) Disconnecting and reconnecting service to a master meter system under this rule.
- (2) A natural gas company may recover expenses under its tariff if:
 - (a) The company direct billed the operator of the master meter system.
 - (b) The company made a good faith effort and followed regular procedures in collecting the debt.
 - (c) The operator failed to pay the bill within ninety days.
- (G) Nothing in this rule relieves an operator of a master meter system from complying with this chapter.

AMENDED

4901:1-16-08 Service of notices and investigative reports.

- (A) This rule governs service of:
 - (1) Notices of probable noncompliance, proposed compliance orders, proposed forfeitures and amendments thereto under rule 4901:1-16-09 of the Administrative Code.
 - (2) Notices of hazardous facility and amendments thereto under rule 4901:1-16-10 of the Administrative Code.
 - (3) Gas pipeline safety investigative reports under rule 4901:1-16-12 of the Administrative Code.
- (B) The staff shall make service upon an operator or gas gathering/processing plant pipeline operator by certified United States mail, courier service, electronic mail, or personal service. Service is effective upon receipt by any employee, agent of, or person

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designated by the operator. Unless otherwise provided in this paragraph, service upon an operator or gas gathering/processing plant pipeline operator shall be made at the address designated as the service address in the operator's most recent annual report to the chief.

- (1) If the service address is not disclosed on the most recent annual report or has changed since the most recent annual report was submitted to the chief, service shall be made at any business address disclosed in documents or papers submitted by the operator or gas gathering/processing plant pipeline operator to the commission.
- (2) If the operator or gas gathering/processing plant pipeline operator has not disclosed its service address or business address to the commission, service shall be made at any business address of the operator or gas gathering/processing plant pipeline operator.
- (C) If service under paragraph (B) of this rule is returned with an endorsement showing failure of delivery, or is not returned within twenty-one days, then service may be made by ordinary United States mail and is effective on the date of mailing.

NO CHANGE

4901:1-16-09 Notice of probable noncompliance; proposed compliance order; and/or proposed forfeiture.

- (A) After an inspection or investigation, the staff may issue a notice of probable noncompliance.
- (B) The staff may issue with the notice of probable noncompliance or separately thereafter:
 - (1) A proposed compliance order.
 - (2) A proposed forfeiture.
- (C) The staff may issue an amended notice of probable noncompliance, proposed compliance order, or proposed forfeiture 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 noncompliances 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

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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).

- (D) Any notice of probable noncompliance, proposed compliance order, proposed forfeiture, or amendments thereto shall be served pursuant to rule 4901:1-16-08 of the Administrative Code.
- (E) The staff findings contained in the notice of probable noncompliance, proposed compliance order, or proposed forfeiture represent the results of the staff investigation. Such findings are not intended to represent the views of the commission or otherwise bind the commission.

NO CHANGE

4901:1-16-10 Hazardous pipeline facilities: inspection and notice.

- (A) After an inspection or investigation, the staff may issue a notice of hazardous facility. The notice may include a proposed compliance order.
- (B) The staff may issue an amended notice or proposed compliance order 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 hazards, facts, 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 hazardous facility not listed in the notice or amended notice, from rescinding or refraining from seeking a finding of hazardous facilities, or from seeking a compliance order 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).
- (C) Any notice of hazardous facility, proposed compliance order, or amendments thereto shall be served pursuant to rule 4901:1-16-08 of the Administrative Code.
- (D) The staff findings contained in the notice and proposed compliance order represent the results of the staff investigation. Such findings are not intended to represent the views of the commission or otherwise bind the commission.

AMENDED

4901:1-16-11 Settlement agreements and stipulations.

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- (A) If the staff and operator or gas gathering/processing plant pipeline operator reach agreement regarding any of the following: the occurrence of a noncompliance; the occurrence of a hazardous condition of a facility; the violation of a commission order; a compliance order or remedy; or the amount of a forfeiture, compromise forfeiture, or other payment, the agreement may be reduced to writing in a settlement agreement and/or stipulation. Such agreement shall be signed by the operator or gas gathering/processing plant pipeline operator, or its attorney, and an authorized representative of the staff. Except as otherwise provided in paragraphs (B) and (E) of this rule, the settlement agreement and/or stipulation shall not be effective until it is filed with the commission and approved by the commission.
- (B) If the settlement agreement and/or stipulation provides for the payment of a forfeiture, compromise forfeiture, or other payment by the operator or gas gathering/processing plant pipeline operator of ~~one-ten~~ thousand dollars or less, the agreement shall be fully binding upon the commission and the operator or gas gathering/processing plant pipeline operator upon its execution.
- (C) Unless contained in or otherwise provided in a settlement agreement and/or stipulation, no statement or conduct during settlement negotiations is admissible in any other commission proceeding regarding the noncompliance, hazardous facility, or violation.
- (D) Where the operator or gas gathering/processing plant pipeline operator has demonstrated to the staff that the violation(s) listed in the notice, or amended notice, of probable noncompliance or gas pipeline safety investigative report has been corrected and where the operator or gas gathering/processing plant pipeline operator submits full payment of the proposed forfeiture prior to the execution of a written settlement agreement and/or stipulation, or final commission order, the violation(s) listed in such notice of probable noncompliance shall be considered by the commission as part of the operator's or gas gathering/processing plant pipeline operator's history of violations in determining the appropriate forfeiture for any future violation.
- (E) If the operator or gas gathering/processing plant pipeline operator pays a proposed forfeiture ~~or of~~ more than ~~one-ten~~ thousand dollars without executing a written settlement agreement and/or stipulation, the payment shall be fully binding upon the commission and the operator or gas gathering/processing plant pipeline operator when approved by the commission.

NO CHANGE

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- (A) The commission may initiate a gas pipeline safety proceeding after:
 - (1) An incident has occurred.
 - (2) A notice of probable noncompliance is served.
 - (3) A notice of hazardous facility is served.
- (B) The commission shall conduct gas pipeline safety proceedings in accordance with Chapter 4901-1 of the Administrative Code.
- (C) Unless otherwise ordered by the commission or an attorney examiner assigned to the gas pipeline safety proceeding, the staff shall file with the commission and serve upon the operator or gas gathering/processing plant pipeline operator a written report of investigation in each gas pipeline safety proceeding within ninety days after service of the entry which initiates the gas pipeline safety proceeding. The gas pipeline safety investigative report shall include: staff findings on any alleged incident, noncompliances, hazardous conditions, or violation of a commission order, whether included in any initial notice or amended notice; staff's findings on operator or gas gathering/processing plant pipeline operator policies and practices; and the staff's recommendations.
- (D) The commission shall hold an evidentiary hearing to consider the alleged incident(s), noncompliances, hazardous conditions and violations of a commission order. The hearing may include evidence on the issues of corrective action and compliance orders, forfeitures, enforcement of a commission order, and other remedies.
- (E) The staff shall prove the occurrence of an incident, noncompliance, hazardous condition of a facility, or violation of a commission order by a preponderance of the evidence.
- (F) If, after a hearing, the commission finds an operator or gas gathering/processing plant pipeline operator has violated or is violating an applicable provision of the pipeline safety code, the commission may consider all factors set forth in section 4905.95 of the Revised Code, including when determining the amount of any proposed civil forfeiture. In addition, the commission may order an operator to terminate service to an operator of a master meter system who has violated the pipeline safety code.
- (G) This rule shall not apply to emergency orders approved by the commission under paragraph (C) of rule 4901:1-16-13 of the Administrative Code.

NO CHANGE

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4901:1-16-13 Emergency proceedings.

- (A) The commission may initiate an emergency gas pipeline safety proceeding consistent with section 4905.95 of the Revised Code.
- (B) The commission shall conduct such proceedings in accordance with Chapter 4901-1 of the Administrative Code, except where inconsistent with this rule.
- (C) Prior to a hearing under this rule, the commission may, without notice, find an emergency exists, may order the attorney general to seek remedies as provided in section 4905.96 of the Revised Code, and shall provide for an expedited hearing to begin no later than thirty days thereafter.

The order shall remain in effect no longer than forty days after the date it was approved.

NO CHANGE

4901:1-16-14 Payment of forfeitures and payments made pursuant to stipulation.

- (A) All forfeitures ordered by the commission or any payments made pursuant to stipulation shall be paid by certified check or money order made payable to "Public Utilities Commission of Ohio," and shall be mailed or delivered to:

"Public Utilities Commission of Ohio

180 East Broad Street

Columbus, Ohio 43215-3793"
- (B) The commission shall deposit such payments in the state treasury to the credit of the general revenue fund.
- (C) No operator or gas gathering/processing plant pipeline operator may recover any forfeiture or other payment made pursuant to stipulation in any pending or subsequent proceeding before the commission.

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NO CHANGE

4901:1-16-15 Gas gathering pipelines and processing plant stub pipelines.

- (A) All gas gathering/processing plant pipeline operators shall comply with the applicable pipe design requirements of 49 C.F.R. 192(C), as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, for all gas gathering pipelines and processing plant gas stub pipelines that are completely constructed on or after the effective date of section 4905.911 of the Revised Code, and that transport gas produced by a horizontal well.
- (B) A gas gathering/processing plant pipeline operator shall do all of the following:
 - (1) Design, install, construct, initially inspect, and initially test the pipeline in accordance with the requirements of 49 C.F.R. 192, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, if the pipeline is new, replaced, relocated, or otherwise changed;
 - (2) Control corrosion according to requirements of 49 C.F.R. 192(I), as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, if the pipeline is metallic;
 - (3) Establish and carry out a damage prevention program under 49 C.F.R. 192.614, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (4) Establish and carry out a public education program under 49 C.F.R. 192.616, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (5) Establish the MAOP of the pipeline under 49 C.F.R. 192.619, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (6) Install and maintain pipeline markers according to the requirements for transmission lines under 49 C.F.R. 192.707, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (7) Perform leakage surveys according to requirements in 49 C.F.R. 192.706, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code; and

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- (8) Retain a record of each required leakage survey conducted under paragraph (B)(7) of this rule and 49 C.F.R. 192.706, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, for five years or until the next leakage survey is completed, whichever time period is longer.
- (C) Not later than twenty-one days prior to commencement of construction of the pipeline, any person who plans to construct a pipeline subject to paragraphs (A) and (B) of this rule after the effective date of section 4905.911 of the Revised Code, shall submit to the pipeline safety division of the public utilities commission a form approved by the division that includes all of the following information:
 - (1) The route of the proposed pipeline;
 - (2) The design MAOP of the pipeline;
 - (3) The outside diameter of the pipeline;
 - (4) The wall thickness of the pipeline;
 - (5) The material that the pipeline will be made of; and
 - (6) The yield strength of the pipeline.
- (D) Not later than sixty days after the completion of construction of a pipeline subject to paragraph (C) of this rule, the gas gathering/processing plant pipeline operator shall submit to the public utilities commission division of pipeline safety an explanation of the constructed pipeline's route and operating information. Operating information shall be submitted to the pipeline safety division of the public utilities commission on a form approved by the division that includes all of the following information:
 - (1) The route of the pipeline;
 - (2) The class location of the pipeline;
 - (3) The length of the pipeline;
 - (4) The MAOP of the pipeline;
 - (5) The outside diameter of the pipeline;
 - (6) The wall thickness of the pipeline;
 - (7) The yield strength of the pipeline; and

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- (8) A description of the complete pipeline, including compressor stations.

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Case No(s). 19-0047-GA-ORD

Summary: Finding & Order adopting the proposed amendments to Ohio Adm.Code Chapter 4901:1-16 regarding the Commission's rules for gas pipeline safety, as determined herein. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio