

**BEFORE
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. 19-0047-AU-ORD

**APPLICATION FOR REHEARING OF
THE OHIO GAS ASSOCIATION**

In accordance with R.C. 4903.10 and Ohio Administrative Code ("OAC") Rule 4901-1-35, The Ohio Gas Association ("OGA") respectfully files its Application for Rehearing of the November 18, 2020 Finding and Order issued in the above-captioned case ("the Order"). OGA does not contest any of the substantive changes adopted by the Order. One provision of the newly adopted rules, however, could be considered unreasonable and unlawful for purposes of R.C. 4903.10 because it may result in uncertain and unclear obligations. For these reasons, as explained in detail in the attached Memorandum in Support, the Commission should grant this application for rehearing and modify the proposed rules accordingly.

Dated: December 18, 2020

Respectfully submitted,

/s/ Devin D. Parram

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MEMORANDUM IN SUPPORT

OGA’s application for rehearing is limited in scope, seeking to simplify and clarify obligations with respect to the abandonment of unrecorded inactive service lines.

The section in question, OAC Rule 4901:1-16-04(J)(4), reads as follows (as adopted):

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.

(Order, Attachment A at 9 (internal scoring omitted).)

OGA does not take issue with the new rule’s substantive requirements or specific timelines. OGA, however, does believe that the rule could be simplified and clarified as follows:

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 inactive service lines that are not abandoned ~~immediately upon~~ within ten days of 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.

These revisions address two basic issues. First, in the second sentence, OGA recommends adding the word “inactive” to the phrase “unrecorded service lines” to achieve consistency with the first sentence, which uses the phrase “unrecorded *inactive* service lines.” The purpose is to

make clear that the entire rule pertains to a single category of facilities and to eliminate the possible implication that different categories of service lines are covered by the two sentences, which OGA does not believe is the intent.

Second, OGA recommends revisions to simplify and clarify timing obligations. As drafted, there are at least four different ways in which the rule speaks to the timing of accelerated abandonment of unrecorded inactive service lines: two are subjective in nature (“as soon as practicable” and “immediately”) while two are objective (“no later than twelve months after discovery” and “within ten days of discovery”).

OGA does not take issue with the specified timelines: a ten-day deadline to abandon or take specified safety actions, and a one-year deadline for final abandonment. These objective timing provisions create a clear incentive for operators to abandon quickly, by requiring multiple operational tasks (full line location; leak surveillance; mapping) if the unrecorded line is not abandoned within ten days. These requirements would also ensure that the operator detected any safety issues not already evident upon discovery. If the operator does not abandon soon after discovery, however, the rule creates a clear time limit of one year. OGA’s revisions would remove neither the basic structure incentivizing expedited abandonment, nor the basic time limit for final resolution if expedited abandonment is not the best use of finite resources.

OGA is concerned, however, that the presence of additional terms addressing timing could muddy these otherwise clear requirements. In particular, the phrases “as soon as practicable” and “immediately” are open to dispute and under the most aggressive interpretations could require levels of escalation typically reserved only for clear and present safety hazards. The “as soon as practicable” concept is not used elsewhere in Chapter 4901:1-16, and the phrase “immediately” is used only to address classification and remediation of hazardous leaks. Using such terms here

could hinder the flexibility typically afforded operators to risk rank compliance tasks, making it more difficult to structure a compliance program.

OGA recognizes that safety concerns can justify accelerated action, and a year may sometimes be too long to abandon an unrecorded inactive service line. But this issue is already addressed by the new rule's ten-day requirement to locate and leak survey. If abandonment prior to ten days is not feasible, the ten-day review ensures that operators will have opportunity to detect any heightened safety issues or risk factors that justify expedited abandonment but were not detected at the time of discovery. This is a sensible requirement, and it renders the subjective aspects of the rule unnecessary.

OGA appreciates and supports the goal of the rule. OGA respectfully requests that the Commission grant rehearing and make the limited modifications discussed above.

Dated: December 18, 2020

Respectfully submitted,

/s/ Devin D. Parram

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case.

/s/ Devin D. Parram
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Summary: Application for Rehearing of The Ohio Gas Association electronically filed by
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