CSI - Ohio

The Common Sense Initiative

MEMORANDUM

TO: Elizabeth Stevens, Public Utilities Commission of Ohio

FROM: Meredith Rockwell, Regulatory Policy Advocate

DATE: August 13, 2012

RE: **CSI Review – Gas Emergency (OAC Chapter 4901:5-25)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of four draft rules – three that are being amended and one that is being submitted with no changes – and regulates fuel shortages with respect to gas. The rules direct gas suppliers of the actions they should take in the event a declaration of an energy emergency is made.

During the stakeholder outreach conducted by the Public Utilities Commission of Ohio (PUCO), Dominion East Ohio (DEO) submitted comments on the rules.

- First, DEO stated that they felt the annual reporting requirement for curtailment plans was too burdensome, but the PUCO felt the annual reporting requirement was necessary to cause suppliers to review their curtailment plans with adequate frequency.
- Second, DEO felt that consumer restrictions during an energy emergency were difficult, if not impossible, for suppliers to implement or enforce. DEO asked the rule language to be amended to reflect this difficulty. The PUCO argued that the language as written does not require suppliers to monitor consumer compliance, and therefore did not need adjustment.

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- Finally, DEO argued that the requirements for restoration, commencement, and transfer of gas service during an energy emergency are unduly burdensome and not warranted. It offered an alternative to allow restoration of service if it does not have an adverse impact on the service to existing customers. The PUCO rejected the suggested changes. Although it did not state it directly, it can be inferred from the description in the BIA that the PUCO views the standards set in place by this rule as providing predictability and standardization that would not be present in the alternative proposal..

AEP-Ohio also commented on the package with a concern related to the jurisdiction of the Federal Energy Regulatory Commission. The PUCO clarified that the rules were drafted to enforce the PUCO's authority, and any conflict with federal law would be handled in the traditional method for determining whether federal or state law governs a particular activity.

No additional comments were received during the CSI public comment period.

The BIA was accurate and complete and represented the impactful portions of the rule package. The PUCO states in the BIA that the requirements placed on businesses by this package serve to protect the public health and safety and to prevent unnecessary or avoidable damage to property during the course of an energy emergency. Additionally, the CSI Office feels that the PUCO considered all comments appropriately before making final determinations about its rule language. For these reasons, the CSI Office agrees that the adverse impact to business created by this rule package is sufficiently justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the PUCO should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office