ADDENDUM

TO: Angela Hawkins, Legal Director, Public Utilities Commission of Ohio

FROM: Mark Hamlin, Director of Regulatory Policy

DATE: November 8, 2013

RE: **CSI Review – Gas Pipeline Safety (OAC 4901:1-16)**

On March 1, 2013, the CSI Office issued a recommendation memo on this rule package in which it recommended that the PUCO not proceed with filing the rules with the Joint Committee on Agency Rule Review until it addressed the recommendation regarding the rule language in OAC 4901:1-16-05 requiring a 24-hour contact report. On October 30, 2013, the Commission issued an order, which is summarized in a response memo dated November 4, 2004 to the CSI Office in which it explained why the relevant language in OAC 4901:1-16-05 is justified. The CSI Office has reviewed this explanation and agrees that the purpose of the rule justifies the adverse impact to business. Consequently, we conclude that the PUCO should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

MEMORANDUM

TO: Elizabeth Stevens, Legal Director, Public Utilities Commission of Ohio

FROM: Mark Hamlin, Director of Regulatory Policy

DATE: March 1, 2013

RE: **CSI Review – Gas Pipeline Safety (OAC 4901:1-16)**

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 one proposed new rule and ten existing rules being proposed for amendment by the Public Utilities Commission of Ohio (PUCO). According to the PUCO, the rules are intended to protect the public by establishing standards for gas pipeline safety consistent with state and federal law. The proposed amendments are the result of Senate Bill 315, which was enacted in 2012 and charges the PUCO with ensuring the safety of high pressure gathering lines associated with horizontal drilling of natural gas.

The Business Impact Analysis submitted by the PUCO notes that it conducted a workshop with stakeholders in August 2012 and received a number of suggestions with regard to the proposed rule package. During the PUCO's comment period, which included submission of the BIA for CSI and stakeholder review, it received comment submissions from four stakeholders. The commenters express varying opinions of the overall rule package, but each provides specific recommendations for the PUCO to consider, ranging from wording changes in definitions to concern about operating requirements being imposed under the proposals.

One concern which was expressed in the various comments related to a requirement that pipeline

operators provide the PUCO with (and keep updated) a 24-hour contact report. The commenters asserted that this requirement is not practical due to changes in shift rotation, and different personnel who would be responsible along different regions of a pipeline system. The commenters suggested an alternative way to ensure that PUCO staff had access to an emergency number at the company who could ensure that the appropriate people respond immediately to a safety situation.

In follow-up discussions, PUCO staff indicated that because this rule package is not being reviewed under the five-year review requirements of ORC 119.032, only the proposed amendments are being evaluated for their impact to business. The 24-hour contact requirement already exists in the rules, so the PUCO declined to comment about the concerns expressed. However, because the proposed amendments expand the scope of the rules to apply to a new category of businesses – "gas gathering/processing plant pipeline operators" – it is impossible to fully evaluate the adverse impact of the rules without understanding the impact the existing rule provisions will have on the new category of businesses. As such, the CSI Office encourages the PUCO to review the comments about the 24-hour contact requirement and determine whether a less cumbersome alternative could provide the same safety protection to the public in emergency situations. Until it has done so and either revised the rule to address these comments or explained why the existing provision is the best alternative, the CSI Office cannot make a determination that the regulatory requirements of the rule package justify the adverse impact to businesses.

Recommendations

As discussed above, the CSI Office makes the following recommendation:

1. The PUCO should either revise the rule language in OAC 4901:1-16-05 requiring a 24-hour contact report, or it should revise its BIA to explain in more detail why the existing requirement is the least burdensome alternative to protect the public in cases of emergency.

Conclusion

The CSI Office concludes that the PUCO should not proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review until it has addressed the recommendation above.