

**MEMORANDUM**

TO: Angela Hawkins, Chief Legal Counsel, Public Utilities Commission of Ohio

FROM: Sean T. McCullough, Regulatory Policy Advocate

DATE: August 28, 2014

RE: **CSI Review – Gas Pipeline Safety Rules (OAC §§ 4901:1-16-01; 4901:1-16-02; 4901:1-16-03; 4901:1-16-04; 4901:1-16-05; 4901:1-16-06; 4901:1-16-07; 4901:1-16-08; 4901:1-16-09; 4901:1-16-10; 4901:1-16-11; 4901:1-16-12; 4901:1-16-13; 4901:1-16-14 and 4901:1-16-15)**

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

I. INTRODUCTION AND BACKGROUND

On March 6, 2014, the Public Utilities Commission of Ohio (PUCO) submitted a rule package containing a total of fifteen (15) rules, which specifically consist of seven (7) amended rules and eight (8) no-change rules. PUCO has submitted these rules as a result of the five-year review requirement contained in R.C. § 119.032. The rules provide safety standards for natural gas pipelines in Ohio. PUCO cites R.C. §§ 4901.13; 4905.03; 4905.04; 4905.91 and 4905.911 as authority to establish these rules. The official comment period ended April 11, 2014. Six (6) stakeholder comments were submitted during the CSI review period.

II. ANALYSIS

A. ADVERSE IMPACT ON BUSINESS

The scope of the impacted business community is comprised of businesses engaged in the operation, design, construction, installation or inspection of gas lines and infrastructure.

The rules contain various impacts to business engaged in gas pipeline operations; for example, they require the reporting of leaks to PUCO, filing of maps and construction reports, notice of service failures, notice of emergency contact personnel, etc. The rules also reference federal gas pipeline safety regulations. The rules provide processes for inspection of business facilities by PUCO to ensure compliance, along with PUCO administrative procedures following those inspections. These requirements are enumerated in R.C. § 107.52, and therefore, are considered adverse impacts to business.

B. JUSTIFICATION FOR ADVERSE IMPACT

According to PUCO, the Commission held a stakeholders workshop on January 16, 2014, for input and feedback on the proposed rules. Thirty-three stakeholders attended and provided input, which was incorporated into the rule drafts. On July 30, 2014, PUCO issued its “Finding and Order” in response to stakeholder comments. In the Order, PUCO incorporated into the rules all but one of the comments made during the CSI review period. The remaining comment concerned a requirement for businesses to submit certain reports concerning construction plans to PUCO before, during and after construction of pipelines. The commenter advocated that PUCO only require a report prior to construction. PUCO argued that the latter two reports, during and post-construction, are necessary to facilitate an accurate understanding for PUCO of the status, schedule, progress and integral safety of the construction. PUCO notes that though a specific schedule and process for construction may be evident prior to construction, circumstances can change throughout the project due to “weather, availability of personnel and resources, and other construction/repair priorities.” Finally, PUCO argues that the rules are necessary to “ensure operational safety of the natural gas infrastructure” in Ohio.

CSI is satisfied with PUCO’s justification because (1) PUCO included a broad group of stakeholders from an early stage of rule review and included those stakeholders in the drafting process, (2) PUCO incorporated comments and suggestions made by stakeholders into the proposed rules, and (3) all stakeholder comments have been either incorporated into the rules or appropriately addressed by PUCO. Accordingly, the adverse impacts of these rules have been sufficiently justified by PUCO.

III. RECOMMENDATIONS

After reviewing the BIA, and pursuant to the more detailed reasons outlined above, CSI has no specific recommendations regarding the rule package.

IV. CONCLUSION

Based on the above analysis and recommendations, CSI concludes that PUCO should proceed with the formal filing of the rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office
Christine M.T. Pirik, PUCO