



## MEMORANDUM

**TO:** Angela Hawkins, Public Utilities Commission of Ohio

**FROM:** Todd Colquitt, Director of Business Advocacy

**DATE:** June 1, 2017

**RE:** **CSI Review – Standards for Waterworks Companies and Sewage Disposal Systems Companies (OAC 4901:1-15-01 through 4901:1-15-35)**

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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 35 rules—13 amended and 22 no-change—being proposed by the Public Utilities Commission of Ohio (PUCO) for review under the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on January 28, 2017, with initial comments due by February 13, 2017, and reply comments due by February 28, 2017.

The proposed rules address the provision of water, sewage disposal, and related facilities to the public by waterworks and sewage disposal companies that are subject to the jurisdiction of the PUCO. Of the thirteen amended rules, eight were submitted with substantial revisions. These revisions include, but are not limited to, changing notice of planned outages and flushings from three days to two if delivered by electronic or telephonic means; basing investigations and recordkeeping on actual consumer complaints, instead of customer dissatisfaction expressed in consumer contacts; and revising water loss control program requirements to distinguish between large and small system operators. The remaining amended rules were revised to update a website address, make grammatical and stylistic changes, and provide more clarity around submitting notifications electronically. All other rules were proposed without revisions.

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The rules impact all waterworks and sewage disposal companies subject to PUCO jurisdiction. Potential adverse impacts from the rules include filing reports; completing a variety of applications and other related documents, including time needed to obtain specific information or, in some cases, prior approval from the Ohio Environmental Protection Agency; submitting written notice indicating a change in company operation; providing notification of construction, sewer main back-ups, outages, and flushings; developing a maintenance plan and schedule; flushing mains at least annually; maintaining records and engineering maps; establishing inspection programs; maintaining updated emergency operations plans, investigating and recording consumer complaints; and providing proper disconnection notices to customers. Finally, failure to comply with the rules could result in fines or corrective action, although only after notice and hearing.

An Entry by the Commission dated July 14, 2016, scheduled a workshop on August 16, 2016. At the workshop, one stakeholder suggested revisions to the rules. Suggested revisions pertained to complaints, dead-end water mains, frequency of meter testings, medical certifications, notice methods for outages and flushings, curb stops and other means of isolating service, sewer service reconnections, mainline extensions, master-meter situations, and disconnection issues in landlordtenant situations. Several of the suggested revisions were incorporated into the draft rules. Furthermore, the Commission sought public comment on the rule package by issuing an Entry on

December 21, 2016, requesting comments by January 25, 2017, and reply comments by February 22, 2017. The deadlines were subsequently extended at the request of a stakeholder to February 13, 2017, and February 28, 2017, respectively. During the comment period, the PUCO received one comment, which was submitted by the same stakeholder who had provided comments during the workshop. This comment expressed support for proposed revisions to the rules and provided no additional recommendations. No reply comments were submitted. The PUCO then released a Finding and Order with a revised BIA on April 26, 2017.

The purpose of a CSI recommendation memo is not to catalogue in detail each rule in all its subparts, but rather to weigh the rule package on the whole in whether stakeholders were included and their input considered, whether the appropriate balance has been struck, and whether the agency has adequately articulated the necessity for the adverse business impact. After reviewing the proposed rules, revised BIA, and stakeholder feedback, the CSI Office has determined that the rule package as a whole satisfactorily meets the standards espoused by the CSI Office and the purpose of the rule package justifies the adverse impacts identified in the BIA.

### **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 Public Utilities Commission of Ohio should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Emily Kaylor, Director of Regulatory Policy