

**MEMORANDUM**

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

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** June 29, 2018

**RE:** **CSI Review – Natural Gas Infrastructure Development Rider (OAC 4901:1-43-01 through 4901:1-43-04)**

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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 four amended rules proposed by the Public Utilities Commission of Ohio (PUCO). The rule package was submitted to the CSI Office on November 21, 2017. In the Commission's original order, comments were due December 18, 2017 with reply comments due January 2, 2018. Two comments were received during this time. A Finding and Order was issued by PUCO on January 24, 2018.

The rules in this package set forth the requirements for the recovery of infrastructure development costs. The rules allow natural gas businesses to file with PUCO an application for approval of an infrastructure development rider, which allows the business to recover the costs of economic development projects. House Bill 26 of the 132nd General Assembly repealed ORC 4929.164, which impacts the rules in this package by eliminating requirements for certified site projects, and raised the limit for infrastructure development rider cost recovery. The rules in this package are being amended to remove the requirements that reference ORC 4929.164, raise the limit for cost recovery from \$2 per year to \$1.50 per month, and include a definition for "economic development

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entity” in Ohio Administrative Code (OAC) 4901:1-43-01.

During early stakeholder outreach, PUCO provided the rules to industry stakeholders, including natural gas companies, economic development agencies, and industry trade associations. PUCO also held a stakeholder workshop on September 21, 2017 and invited stakeholders to present feedback. Comments were received from four natural gas companies and PUCO made amendments to the rules in response to the feedback offered by the stakeholders.

During the CSI public comment period, PUCO received comments from the Ohio Consumers’ Counsel (OCC) and a joint comment from five Ohio gas companies. OCC proposed two changes to the rules. The first suggested that PUCO amend the rules to require a cost benefit analysis be included in applications for approval of infrastructure development projects. The second change proposed by OCC suggests requiring certain information be reported in an annual report on an infrastructure development rider, including the increase in state and local taxable base, number of jobs created and retained, and benefits to the community. The joint comment filed by the Ohio gas companies stated their support for the proposed amendments to the rules.

PUCO issued its Finding and Order in response to comments on January 24, 2018. PUCO stated that the suggested changes were outside the statutory scope of the rules. PUCO also noted that the current rules allow for the analysis and review of economic development projects. Thus, PUCO did not make changes to the rules based on the suggestions of OCC.

The rules in this package impact all natural gas companies in Ohio, as well as customers of gas companies. The adverse impact created by these rules is largely contained within OAC 4901:1-43-03, in which the recovery amount is raised from \$2 per year per customer to \$1.50 per month per customer. While this represents a potential increase in costs to customers, this change to the rule is required under the amendments made to the ORC in House Bill 26.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

Based on its review of the proposed rule package, the CSI Office recommends the Public Utilities Commission of Ohio should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.