



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Joseph Baker**, Director

### MEMORANDUM

**TO:** Jeffrey Jones, Public Utilities Commission of Ohio

**FROM:** Michael Bender, Business Advocate

**DATE:** February 6, 2023

**RE:** **CSI Review – Recovery of Infrastructure Development Costs (OAC 4901:1-43-01, 4901:1-43-02, 4901:1-43-03, and 4901:1-43-04)**

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On behalf of Lt. Governor Jon Husted, 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 Commission as provided for in ORC 107.54.

#### Analysis

This rule package consists of three amended rules and one no-change rule proposed by the Public Utilities Commission of Ohio (PUCO). This rule package was submitted to the CSI Office on December 19, 2022, and the public comment period was held open through January 6, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on December 19, 2022.

Ohio Administrative Code (OAC) 4901:1-43-01 specifies definitions pertaining to natural gas infrastructure development riders. The rule is amended to update language. OAC 4901:1-43-02 states that the rules of the chapter authorize a natural gas company to file an application with the PUCO for approval of an infrastructure development rider to recover prudently incurred infrastructure development costs of economic development projects approved under ORC 4929.163. OAC 4901:1-43-03 provides for the filing of a notice containing certain information with the PUCO by a natural gas company for approval of an economic development project prior to beginning construction. The rule is amended to update language and remove provisions requiring a description of how a utility will not exceed the monthly recovery cap and requiring support for a project by an economic

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development entity or a chamber of commerce due to being redundant with the ORC. OAC 4901:1-43-04 provides for the cost recovery rider process, including the initial application and an annual report. The rule is amended to update language and remove a provision requiring the filing of an annual report as it is duplicative of the ORC.

During early stakeholder outreach, the PUCO issued an Entry in Case No. 22-813-GA-ORD to seek comments from stakeholders from October 5, 2022, through October 26, 2022, regarding proposed revisions to OAC 4901:1-43. The Entry was served upon the gas pipeline industry listserv in addition to various state and local regional economic development organizations, industry trade associations, and other interested stakeholders. The PUCO received comments during this time period from Columbia Gas of Ohio (Columbia) proposing the elimination of a provision which outlines the information required to be in an application for approval of an economic development project, asserting that it restates text already located in the ORC. The PUCO amended the rules to accept this suggestion in part, stating that if it completely removed the provision as suggested by Columbia, then it would lose the discretion to determine which information should be included in an application, discretion which is authorized by the ORC. No additional comments were received during the CSI public comment period.

The business community impacted by the rules includes all natural gas companies. The adverse impacts created by the rules include filing applications and an annual report. The PUCO notes that rule revisions reduce regulatory restrictions and should have a positive impact on the business community. The PUCO states that the adverse impacts to business are justified to fulfill ORC requirements and to balance the interests of state economic development, the protection of public health and safety, the preservation of environmental quality, the maintenance of a sound economy, and the conservation of energy and material resources.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.