

Attachment B
Case No. 19-1429-GA-ORD
Chapter 4901:1-13, Ohio Adm.Code
Minimum Gas Service Standards
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Common Sense Initiative

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Regulation/Package Title: Gas Companies

Rule Number(s): 4901:1-13-01, 4901:1-13-02, 4901:1-13-03, 4901:1-13-04, 4901:1-13-05, 4901:1-13-06, 4901:1-13-07, 4901:1-13-08, 4901:1-13-09, 4901:1-13-10, 4901:1-13-11, 4901:1-13-12, 4901:1-13-13, 4901:1-13-14

Date of Submission for CSI Review: December 18, 2019

Public Comment Period End Date: January 31, 2020

Rule Type/Number of Rules:

- | | |
|---|---|
| <input type="checkbox"/> New/___ rules | <input type="checkbox"/> X No Change/ <u>7</u> rules (FYR? Yes) |
| <input type="checkbox"/> X Amended/ <u>7</u> rules (FYR? Yes) | <input type="checkbox"/> Rescinded/___ rules (FYR? ___) |

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency,

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responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- ☐ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☒ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.
Please include the key provisions of the regulation as well as any proposed amendments.

The proposed revisions to the rules in Ohio Adm.Code Chapter 4901:1-13 are in accordance with the state of Ohio's five-year rule review procedures. R.C. 111.15(B) and 106.03(A) require all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The rules in Ohio Adm.Code Chapter 4901:1-13 set forth the minimum gas service standards for gas and natural gas companies subject to the Commission's jurisdiction. The chapter currently includes rules addressing retention of records and access to records and business activities; metering; minimum customer service levels; provision of customer rights and obligations;

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employee identification; standards specific to the provision of small commercial gas service; fraudulent practice, tampering, and theft of gas service; complaints and complaint-handling procedures; customer billing and payments; consumer safeguards and information; uniform system of accounts; and coordination between gas or natural gas companies and retail natural gas suppliers or governmental aggregators.

Among other changes, the following amendments to the rules are proposed: (1) Ohio Adm.Code 4901:1-13-01 would be amended to add a definition for the term “contract portability”; (2) Ohio Adm.Code 4901:1-13-10 would be revised to provide for a dedicated telephone number for use by Commission staff in escalating consumer complaints; (3) Ohio Adm.Code 4901:1-13-11 would be modified to include a price to compare statement on customer bills, as well as to provide that bills may only contain charges for the natural gas commodity or tariffed distribution service; (4) Ohio Adm.Code 4901:1-13-12 would be amended to permit a customer to request that a retail natural gas supplier block be placed on the customer’s account, as well as to provide for notification of contract portability in the event of a customer move request; and (5) Ohio Adm.Code 4901:1-13-14 would be revised to provide that a current copy of the supplier agreement be filed with the tariff, as well as to provide that all information on the customer-eligible lists be identified in the tariff and approved by the Commission. Additionally, the existing provisions in Ohio Adm.Code 4901:1-27-13(F), which address the steps to be taken by a gas or natural gas company in the event of a material default by a retail natural gas supplier or governmental aggregator, would be moved to Ohio Adm.Code 4901:1-13-14, in order to consolidate all rules addressing the minimum service standards for the gas and natural gas companies in one chapter. If Staff’s proposal is adopted by the Commission, the existing provisions in Ohio Adm.Code 4901:1-27-13(F) would then be removed through amendment or rescission, in order to eliminate any duplication of rules. Similarly, certain provisions in Ohio Adm.Code 4901:1-29-09(C), pertaining to use of customer information by a gas or natural company, would be moved to Ohio Adm.Code 4901:1-13-12.

3. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Rule	Statutory Authority – Ohio Revised Code
4901:1-13-01	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-02	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-03	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-04	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-05	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-06	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-07	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-08	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-09	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-10	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-11	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-12	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-13	4905.04, 4905.06, 4905.22, 4905.28
4901:1-13-14	4905.04, 4905.06, 4905.22, 4905.28, 4929.10, 4929.22

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
*If yes, please briefly explain the source and substance of the federal requirement.***

No rule in this chapter implements a federal requirement or is being adopted or amended to enable Ohio to obtain or maintain approval to administer or enforce a federal law or to participate in a federal program.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

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The rules contained in Ohio Adm.Code Chapter 4901:1-13 are intended to provide minimum standards for uniform and reasonable practices. The proposed revisions to the rules in this chapter comply with the public purpose for the regulation and provide greater consumer protections and safeguards.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The rules contained in this chapter govern gas and natural gas companies. The success of the regulation in terms of outputs and outcomes will be measured based upon feedback from customers, retail natural gas suppliers, and gas and natural gas companies.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No. The revisions of the rules in Ohio Adm.Code Chapter 4901:1-13 are being made in accordance with R.C. 111.15(B) and 106.03(A), which require all state agencies to conduct a review of their rules at least once every five years.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On July 8, 2019, the Commission, in Case No. 19-1429-GA-ORD, ordered a workshop to take place on August 13, 2019, to allow stakeholders the opportunity to propose revisions to Ohio Adm.Code Chapter 4901:1-13. The Commission's order scheduling the workshop was publicly filed in Case No. 19-1429-GA-ORD, as well as served on stakeholders, including all gas and natural gas companies, all competitive retail gas suppliers, Ohio Consumers' Counsel, Ohio Gas Association, Ohio Petroleum Council, Ohio Oil and Gas Association, and other subscribers to the Commission's gas pipeline industry electronic mail list. In addition to

Commission staff, individuals from nine stakeholder groups were in attendance at the August 13, 2019 workshop, including representatives from the Ohio Consumers' Counsel, Dominion Energy Ohio, Columbia Gas of Ohio, Ohio Gas Association, Aspire Energy, AEP Energy, Volunteer Energy, IGS Energy, and Utility Technologies International. Two stakeholders offered comments at the workshop. The workshop was also webcast via the Commission's website.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

At the workshop held on August 13, 2019, comments were offered by Columbia Gas of Ohio and the Ohio Consumers' Counsel. Recommendations from both stakeholders have been incorporated in the proposed rules. The Commission will also consider any comments or reply comments addressing the minimum service standards for gas and natural gas companies, as well as coordination between such companies and retail natural gas suppliers, that are filed by stakeholders and the general public in Case No. 19-1429-GA-ORD.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was used to develop Ohio Adm.Code Chapter 4901:1-13. In adopting any changes to Ohio Adm.Code Chapter 4901:1-13, the Commission will take into account all feedback from stakeholders and the general public regarding the rules, including any scientific data that is provided. Stakeholder and public feedback can be made directly to the Commission by filed comments from residential, commercial, and industrial consumers, the Ohio Consumers' Counsel, regulated gas and natural gas companies, and any other person or entity.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Ohio Adm.Code Chapter 4901:1-13 is required to comply with the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28. Thus, regulatory alternatives were not available. As

discussed above, however, the Commission will consider any alternative proposals put forth in comments or reply comments filed by stakeholders and the general public.

13. Did the Agency specifically consider a performance-based regulation? Please explain.
Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

Ohio Adm.Code Chapter 4901:1-13 is required to comply with the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28. Thus, performance-based regulations were not considered. The proposed revisions pertain to minimum gas service standards. The standards are not performance-based in the sense defined above. The rules in the chapter are regulatory in nature as required by the Revised Code.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Commission has widely publicized notice of the consideration of these rules to the natural gas industry, as well as other governmental organizations and interest groups. The Commission has reviewed other Ohio regulations and found no duplicate, nor has a duplicate regulation been identified by any stakeholder. Further, Ohio Adm.Code Chapter 4901:1-13 is required to comply with the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Ohio Adm.Code Chapter 4901:1-13 is required to comply with the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28. The opportunity for continued feedback and input from the regulated community always exists through interaction with the Commission staff and better ensures that implementation of the rules in this chapter occurs consistently and predictably. Upon completion of the rulemaking process, the changes made to Ohio Adm.Code Chapter 4901:1-13 will be attached to the Commission's Finding and Order and served upon all gas and natural gas companies, all competitive retail gas suppliers, Ohio Consumers' Counsel, Ohio Gas Association, Ohio Petroleum Council, Ohio Oil and Gas

Association, and other subscribers to the Commission's gas pipeline industry electronic mail list.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Ohio Adm.Code Chapter 4901:1-13 establishes minimum gas service standards for gas and natural gas companies subject to the Commission's jurisdiction. The provisions of the chapter are intended to promote reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices. The rules are in effect to protect customers and ensure that the services provided by the gas and natural gas companies are prudent and appropriate.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Any adverse impact takes the form of the time and expense associated with compliance. For example, some of the rules require gas and natural gas companies to file specified reports and plans to the Commission or its staff. Other rules may have an adverse impact in terms of the time and expense involved for the gas and natural gas companies to adjust their systems or to update their tariffs to reflect the proposed rule revisions.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The Commission staff works extensively with all regulated companies toward rule compliance involving the least amount of time and expense.

Any adverse impact in terms of dollars and hours to comply should, in most instances, be minimal. For example, regulated companies are required under the rules to report a failure to meet minimum service levels within a specified timeframe, which involves a nominal amount of time and expense to compile and report the necessary information. The rules have been reviewed in an effort to minimize any adverse impact on business, while complying with the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28. Additionally, the Commission anticipates that some of the revisions to Ohio Adm.Code Chapter 4901:1-13 will have a positive impact on the gas and natural gas companies.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Commission determined that Ohio Adm.Code Chapter 4901:1-13 is required to comply with the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28. The Commission is vested with power and jurisdiction to supervise and regulate public utilities, including that such utilities furnish products and services in a manner that promotes the public interest. The Commission has worked with stakeholders over the years to develop a chapter that best serves these goals. It is notable that the regulated community has not indicated that the rules in the chapter are particularly onerous, including at the workshop held on August 13, 2019.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Gas and natural gas companies are under the jurisdiction of the Commission and may not generally be exempted from the requirements provided in Ohio Adm.Code Chapter 4901:1-13. However, small gas and natural gas companies serving 75,000 or fewer customers are exempted from some of the provisions of the chapter, such as Ohio Adm.Code 4901:1-13-03(D) and 4901:1-13-05(B). Additionally, the Commission staff works extensively with all regulated companies, including the smaller ones, toward rule compliance.

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19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Ohio Adm.Code Chapter 4901:1-13 is intended to reflect the legislative intent of R.C. 4905.04, 4905.06, 4905.22, and 4905.28, and to articulate Commission authority to enforce rules governing the minimum gas service standards. The focus of the Commission's implementation of the minimum gas service standards is not on seeking penalties for first-time paperwork offenses. The Commission will fully comply with R.C. 119.14.

20. What resources are available to assist small businesses with compliance of the regulation?

The Commission staff routinely works with small regulated companies to assist them with understanding the rules found in Ohio Adm.Code Chapter 4901:1-13. In Case No. 19-1429-GA-ORD, stakeholders and the general public, including small businesses, were invited to participate in a workshop to discuss potential revisions to the rules in order to decrease or eliminate any adverse impact on the business community. Small businesses may contact the Commission at any time to voice their concerns and may file written comments on the rules during the comment period.