

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Review of Chapters)
4901:5-17, 4901:5-19, 4901:5-21, 4901:50-23,)
4901:5-25, 4901:5-29, 4901:5-33, 4901:5-35, and) Case No. 06-1201-AU-ORD
4901:5-37 of the Ohio Administrative Code.)

REPLY COMMENTS OF THE OHIO GAS MARKETERS GROUP**I. INTRODUCTION**

Pursuant to the November 4, 2006 Entry in the above styled proceeding, the Ohio Gas Marketers Group ("OGMG") respectfully submits the following reply to the initial comments filed in response to the review of the rules in Chapter 4901:5-25 of the Ohio Administrative Code related to natural gas energy emergencies. The OGMG consists of: Commerce Energy, Inc., d/b/a Commerce Energy of Ohio, Inc.; Direct Energy Services, LLC; Hess Corporation; Interstate Gas Supply, Inc.; MxEnergy, Inc.; and Vectren Retail, Inc. LLC d/b/a Vectren Source, each of which are actively engaged in sale of natural gas within Ohio. All the members of the OGMG are certificated, competitive retail natural gas providers or suppliers of standard service / PIPP programs or both.

II. REPLY COMMENTS**A. Proposed Rule 4901:5-21-01(F)(4) "Gas Supplier"**

At pages 1-3 of its Initial Comments, Columbia Gas of Ohio ("Columbia") argues that the definition of "gas supplier" should be modified to read

".... (4) any natural gas company, pipeline company or other persons engaged in the delivery of natural gas to consumers within this state."

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Columbia points out that if this change is not made, customers will be inundated with multiple notices under Rule 4901:1-5-25-04(A). The OGMG supports Columbia's position. In its Initial Comments the OGMG noted the statutory limitations of Section 4935.03, Revised Code to including non utilities as part of the "pre emergency" plan, as well as suggested changing the declared emergency rules so that only jurisdictional utilities provide public and customer notices and implement curtailment plans. By changing the definition of "Gas Supplier" for the whole of section OAC 4901:1-5-25, Columbia's proposal takes care of the lack of Commission authority to regulate before the Governor's declaration and the possibility of duplicative curtailment plans and notices during a declared energy emergency. Thus OGMG finds merit in Columbia's proposal and the brevity with which the proposal eliminates most of the problems the OGMG found with the proposed Energy Emergency Rules for Natural Gas. Creating a chain of command for items like curtailment, supply monitoring and direct end user contacts eliminates the confusion, duplicity and lack focus if all participants, including brokers and marketers, are required to inform their customers or the public about how to respond to an energy emergency. These are emergency rules and in the midst of a crisis having a cacophony of advisories, reports, cut back notices and re-allocations of scarce supplies is counter productive. Traditionally, the natural gas utilities have been the entities that inform the end use customers of a gas emergency. Because they actually serve the end use customers the natural gas utilities have curtailment plans, access to end user customer consumption information and the call center facilities and staff trained to respond to the public. The Commission should make the revision in Rule 4901:5-25-01(F) (4) as suggested by Columbia and the OGMG.

B. Proposed Rule 4901:1-5-25-05(A) (1)

At page three of its initial comments, Dominion East Ohio (“DEO”) recommends that this rule be modified to recognize the governor's authority to issue executive orders, but also to provide gas suppliers with the flexibility needed to respond promptly and effectively to energy emergencies in the absence of such an order. DEO points out that there could be a potential delay by gas suppliers operating under the belief that they cannot implement a curtailment plan until an executive order has been issued.

The OGMG agrees that natural gas utilities¹ need to have flexibility to respond to shortages and pressure problems that may occur independent of an energy emergency declared by the Governor. It is important, though, that the Commission supervise the emergency actions taken by the natural gas utilities, whether the actions are pursuant to a declared emergency by the Governor or one by the utility company itself. To protect the public the Commission must make sure that not only are priority customers supplied, but that the customers or suppliers who are subjected to confiscation of natural gas supplies or loss of service are made financially whole. An energy emergency action which rewards the ill prepared at the expense of the customers who planned or invested harms the community in the long run. Simply put, curtailment, confiscation or a reduction of service to any customer should only be implemented to protect human needs and essential community services. Further, those who are called upon to sacrifice should be made financially whole for the property that is taken.

C. Rule 4901:1-5-25-05(A) (1)

In its Initial Comments at page four, DEO argues that the requirement that a gas supplier has to inform consumers on how to substantiate a claim for priority use might be

¹ The term “natural gas utility” as used in these comments refers to the natural gas companies who physically supply customers and are subject to the Commission’s jurisdiction under Chapter 4905, Revised Code.

feasible if an energy emergency was preceded by a long period in which lengthy preparations can be made. But DEO argues that in all likelihood, a quick response is required in an energy emergency which will not accommodate administrative procedures for such notice. DEO argues that the rule should be modified to insert the phrase "when practical to do so" at the end of the rule.

The OGMG agrees with DEO that further clarification may be helpful. As noted above in an emergency it is important to allow the natural gas utilities and the gas suppliers to focus on the constraints which have given rise to the emergency, and delay non essential tasks. Assessing the priority load for delivery needs during an emergency though may have operational implications, so the natural gas utility does need to have a process available so that customers or their suppliers can inform the utility of a priority load of which the natural gas utility may not be aware.

D. Conforming Curtailment Plan

In its comments at pages 1-2, Stand Energy argues that Columbia Gas of Ohio does not have a conforming curtailment plan on file with the Commission. Stand believes that Columbia's reliance on Case No. 85-800 guidelines is misplaced and that the 85-800 guidelines are out-of-date and do not address how a marketer whose gas is seized is compensated.

The OGMG agrees with Stand's observation that Columbia's tariffs need to be updated. In that regard Columbia is not alone and with the many demands on natural gas utilities it is easy to understand how updating curtailment plans have not been priority projects. In that regard, the five year review of the Energy Emergency Rules is a helpful reminder that curtailment plans that reach back to the mid 1980's need to be modernized to comport with the post House Bill 9 world of Choice programs, government aggregation and large scale pooling.

The OGMG in its Initial Comments recommended that there be a corrective tariff review for all major utilities. Each company's tariff needs to be revisited so that the economic impacts of operational flow orders, requests for over-deliveries, and confiscated gas are addressed. Specifically, tariffs should have a mechanism which calculates the value of requested over-deliveries or borrowed gas supplies and has an equitable pay back mechanism for the "donor" customers. In this regard, the OGMG incorporates by reference its comments on page 12 of its Initial Comments and urges the Commission to adopt a tariff provision such as the one in the addendum to sheet No. 44, page 7 of 11 of Duke Energy's PUCO gas no. 18 tariff as a template.

E. Emergency Simulation

At pages 9-11 of its comments, the Office of the Consumers' Counsel ("OCC") urges the Commission to undertake an emergency simulation in order to test the emergency preparedness of the Commission and energy suppliers affected by these rules. The OGMG agrees with the sentiment of the OCC's suggestion, but believes that a lower cost, less intrusive way to begin upgrading emergency preparedness would be to start with a set of pre and post heating season technical sessions. The sessions would be attended by the natural gas utilities, the major supplier \ marketers, the Commission Staff and the OCC and discuss operations, projections and emergency readiness. Specifically, the pre heating season meeting would consist of a review of the assets and procedures in place to meet the heating demand. Similarly, the post heating season session would review how operations fared the past heating season and what could be improved for the next year. Following the shortages of late 1970's such meetings on an informal basis were conducted and seemed to be productive. With the surplus of the mid 1980's the meetings stopped.

II. CONCLUSION

The OGMG respectfully requests that the Commission modify its rules consistent with its Initial and Reply Comments.

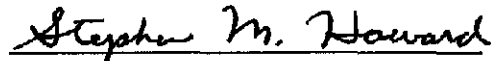
Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Reply Comments of the Ohio Gas Marketers Group was served upon the following persons by first class U.S. mail, postage prepaid, or, where indicated, also by electronic mail, this 16th day of January, 2007.


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