PUCO

Staff Evaluation of Ohio's Natural Gas Customer Choice Programs:

Columbia Gas of Ohio
East Ohio Gas, and
Cincinnati Gas and Electric Companies

PUCO Case Nos. 98-593-GA-COI
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98-549-GA-ATA
96-1113-GA-ATA
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DOCKETING DIVISION
Public Utilities Commission of Ohio

Volume I

Submitted by the Staff
of
The Public Utilities Commission of Ohio

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman
Jolynn Barry Butler, Commissioner
Ronda Hartman Fergus, Commissioner
Judith A. Jones, Commissioner
Donald L. Mason, Commissioner

To The Honorable Commission:

The Commission's Staff has completed its evaluation of the Customer Choice Programs of Columbia Gas of Ohio, East Ohio Gas Company and the Cincinnati Gas and Electric Company and hereby submits its findings and recommendations.

The report has been jointly prepared by the Commission's Utilities Department and Consumer Services Department. The coordinators for the report were Stephen E. Puican and Andrew M. Grandjean.

The Utilities Department sections were prepared under the overall supervision of Jerry L. Wissman. The Performance Analysis Division's portion was prepared under the supervision of Stephen E. Puican, the Energy and Water Division's portion was prepared under the supervision of Douglas R. Maag, the Forecasting Division's portion was prepared under the supervision of Lou Pompi.

The Consumer Services Department section was prepared under the overall supervision of Deborah Gnann. The coordination of the report among the Service Quality Analysis and Public Interest Center Divisions and the Department's Consumer Education group was supervised by Andrew M. Grandjean.

The Report is intended to present for the Commission's consideration the results of the Staff's analysis. It does not purport to reflect the views of the Commission nor should any party to these proceedings consider the Commission as bound in any manner by the recommendations set forth therein.

Respectfully submitted,
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PUCO STAFF EVALUATION
OF OHIO'S
NATURAL GAS CUSTOMER CHOICE PILOT PROGRAMS

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SECTION 1
EXECUTIVE SUMMARY

This report presents the results of the Staff's evaluation of the Natural Gas Customer Choice Pilot Programs[1] of the Cincinnati Gas and Electric Company, Columbia Gas of Ohio, and the East Ohio Gas Company. Staff evaluated each Company's program by measuring customer awareness, acceptance and satisfaction, monitoring utility activities, and by tracking gas marketer participation and reviewing their comments about program operations. Staff recommendations are for the Commission's consideration in determining the possible expansion of the Choice programs.

Volume I of this Report contains this Executive Summary and four additional sections. Discussion of customer education is provided in Section Two. Section Three is an evaluation of the impact of the Choice programs on utility operations and discusses potential changes in the current regulatory rules. The fourth section highlights issues raised by participating marketers. Finally, Section Five presents monthly participation rates and other program statistics, including a study of market concentration.

Volume II is a report of the Staff's research measuring consumer attitudes and expectations of the Choice programs. Volume II is a follow-up study to an early baseline survey that established customer expectations regarding the Choice programs. Staff reviewed over 2,000 residential and nearly 1,500 business survey responses in compiling the data found in Volume II.

Background

Customer Choice programs are intended to promote competition in the supply of natural gas to all Ohioans. The goal is to make gas transportation service (long available to industrial customers) a competitive alternative for residential and small commercial consumers. The Choice programs allow gas marketers to compete with the Local Distribution Company (LDC) in supplying natural gas to customers. Choice Programs provide the customers a choice as to who will supply his/her natural gas needs.

Choice does create changes in the resolution of certain customer service issues. Delivery and gas safety questions remain to be addressed by the LDC, but Choice customers would direct supply and price issues to their selected marketer. Marketers participating in these Choice programs signed agreements with each LDC describing their operations and charges for service.

Marketers also had to agree to comply with a code of conduct to participate in the Choice program. The Code requires marketers to:

1. Refrain from fraudulent, deceptive, or misleading practices;

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[1] This report will refer to all three evaluated programs as Choice or Customer Choice programs.

2. Provide clear and understandable marketing information;

3. Establish dispute resolution procedures; and

4. Provide a contact address and phone number.

All participating marketers were required to meet with Staff before providing service. Staff reviewed marketer advertising, customer education materials, and dispute resolution procedures.

Columbia Gas of Ohio Gas

The first phase of the Customer Choice pilot program, which has operated for one year in the greater Toledo area, began April 1, 1997. Columbia Gas of Ohio filed an initial request to offer its Choice program on October 17, 1996 in Case No. 96-1113-GA-ATA. An amended application was filed on January 3, 1997. Authorization for the program was granted by the Commission in an Opinion and Order issued January 9, 1997. This Opinion and Order noted that Columbia Gas of Ohio discussed the program with members of the Columbia Collaborative and guaranteed additional meetings to resolve any pertinent matters involving the Choice program. About 160,000 residential and 11,500 small business customers in Lucas and parts of Wood and Ottawa Counties are eligible to participate in the Customer Choice Program. A small business customer is defined as one who consumes less than 2,000 mcf per year.

Cincinnati Gas and Electric Gas Company

The Commission's December 12, 1996, Opinion and Order in Case No. 95-656-GA-AIR directed the Cincinnati Gas & Electric Company to meet with independent gas marketers and other interested parties to develop acceptable firm transportation tariffs for residential and small commercial customers. CG&E and intervenors subsequently submitted a stipulation and proposed tariffs to comply with the order, and the Commission approved the modified stipulation on July 2, 1997. The resulting customer choice pilot program was designed to give all 360,000 CG&E residential and small business customers competitive options in selecting their natural gas supplier.

The East Ohio Gas Company

On September 25, 1996, the East Ohio Gas Company filed with the Commission a request to implement its proposed Core Market Aggregation Service. The proposed phased-in, program will allow all East Ohio Gas customers to choose their gas supplier. The Commission opened a hearing on the application April 7, 1997, and continued the hearing to May 21, 1997. On May 16, 1997, the Company and the Commission's Staff signed a stipulation and recommendation, resolving all issues between them concerning the program's terms and conditions and limiting the pilot to the 160,000 residential and 12,000 commercial customers on the Canton and Marietta distribution systems. The first phase of the pilot program, which was to run for one year in a 10-county region in the Marietta and Canton areas, began October 1, 1997.

Recommendations

This report was prepared as a PUCO Staff work product. Specific recommendations to the Commission have been made throughout the report although attempts were made to offer reasonable alternatives where practical. None of the findings and recommendation contained herein should be considered binding on the Commission.

Staff recommends that the Columbia Gas Customer Choice Program be expanded and the Cincinnati Gas & Electric Customer Choice program be continued system wide for the 1998 - 1999 heating season. Staff recommends the East Ohio Gas program be expanded to include Cuyahoga County for the 1998 - 1999 heating season and further expanded system wide no later than the second quarter of 1999. The reasons for the different recommendation for the East Ohio program are explained in the "Billing Options" and "Capacity Assignment" parts of Section 4 of this Report. In addition to these overall recommendations, the Report presents additional specific recommendations for enhancements to the program for the Commission's consideration prior to system wide expansion. The recommendations include reforms to the Gas Cost Recovery (GCR) process and the continuation and expansion of the PUCO's "Apples to Apples" price comparison information. Finally, we recommend that there be an ongoing review of the progress of development of the customer choice programs through the GCR review process. Staff also wishes to commend the LDCs and marketers participating in the pilot programs for their efforts in working together to improve the efficiency and viability of the programs.

Additional copies of this Report are available by contacting the PUCO's Docketing Division at (614) 466-4095. The Report is also available on the PUCO's website at http://www.puc.state.oh.us.

SECTION 2
CONSUMER OUTREACH

Under the customer choice programs of the Columbia Gas of Ohio (COH), Cincinnati Gas and Electric (CG&E) and East Ohio Gas (EOG) companies, nearly 700,000 residential and small business customers throughout the state were eligible to select their natural gas supplier. Since natural gas competition was new to Ohio's natural gas customers, it required extensive educational campaigns to help eligible customers understand their choices and to provide the information customers needed to make informed decisions.

In its Orders of July 2, 1997, the Commission required CG&E and East Ohio gas to conduct comprehensive education campaigns. During this time, Columbia had already been executing an education campaign for its customers in the Toledo area. The Commission also required the Local Distribution Companies (LDCs) to work with PUCO Staff to develop the campaigns and ensure the value of the messages contained therein. The Staff was then directed to evaluate the efforts of the LDCs and the results of the campaign in promoting customer awareness and understanding of natural gas choice. The first part of this section is the Staff's evaluation of the LDCs' education efforts and recommendations for future expansions or roll-outs of the customer choice programs.

The Commission also formalized a period of time at the beginning of each of the programs wherein customer enrollment and marketer advertising was prohibited and only the LDC, the PUCO and the OCC could contact customers for the purpose of informing them about the program. This "moratorium" was informally conducted for two weeks at the beginning of the Columbia pilot, but formally Commission-Ordered for the first 45 days of the CG&E program and 90 days for the beginning of the East Ohio program. The second part of this section, "Moratoriums," presents the Staff's evaluation of the effectiveness of the moratorium concept in educating customers and recommendations for future moratoriums instituted for expansions of the customer choice programs.

Finally, in an effort to aid customers in the daunting task of comparing suppliers' offers, the PUCO developed and distributed an "Apples to Apples" price comparison chart. The third part of this section, "Apples to Apples Price Comparison Chart," is the Staff's evaluation of the effectiveness of the chart in helping customers understand the pricing options available to them and the Staff's recommendations for the chart in future expansions or roll-outs.

CUSTOMER OUTREACH AND PUBLIC EDUCATION

Because educating the public on the local distribution company's choice program was vital to customer participation, each LDC undertook an integrated marketing and education plan to both create program awareness and educate customers on the program's procedures. The plans included paid media (advertising and publications), unpaid media (news releases, speakers bureau and special events) and internal communications (making company Staff into ambassadors for the programs). Each company concentrated its education campaign during the moratorium--the moratoriums and their effects are discussed later in this section--on customer enrollment.

Paid Media

Paid media comprise all paid advertising including print, TV, radio, outdoor and direct mail. Each of the LDCs executed a paid advertising campaign utilizing print and radio media. The programs of CG&E and East Ohio also included direct mail and television advertising. Columbia's program included the use of outdoor advertising (billboards).

Unpaid Media

Unpaid media are all of those activities outside of paid advertising including press releases, media interviews, speaking engagements and public forums. Each of the companies issued press releases over the duration of the programs, but only Columbia issued press releases on a regular basis after the moratorium. Each of the companies devoted resources to developing and promoting a speakers bureau to provide face to face descriptions of the program through speaking engagements. East Ohio's education plan included 10 company-sponsored public meetings, but attendance was low, with some meetings drawing an audience of fewer than five consumers. Though each company presented more than three dozen speeches to civic groups and senior centers, Staff surveys undertaken as part of the review and attached as Volume 2 show this type of outreach ranks low on ways consumers want information. Survey respondents listed public meetings or forums as their preferred way of getting information, less than 7% of the time in any of the pilot areas survey (see Volume 2 for complete method and sample explanation).

Internal Education

All three companies' education plans included intensive internal education. Company newsletters, staff meetings, memoranda and electronic mail were used to communicate information about the program to their employees. East Ohio provided its field employees with answer cards to facilitate discussions when having public contact. East Ohio also developed an excellent question and answer book for customer representatives. All three of the companies developed company staff training.

Discussion

The PUCO Staff recognizes that providing information and running good education campaigns over the course of one year (Columbia Gas) or six months (CG&E and East Ohio) may not necessarily produce optimum levels of public awareness and understanding of the program. An issue for consumers as foreign and complex as energy competition can take several years to effectively communicate. For example, it took telecommunications competitors more than 10 years to gain a 45 percent market share in the long distance telephone market. The level of consumer understanding of the risks and benefits of choice has been identified through LDC surveys and the PUCO's surveys as the main inhibitor (given a low understanding) for participation.

All of the LDCs undertook comprehensive education campaigns and designed marketing plans similar in scope. PUCO surveys indicate that information distribution was most successful in the East Ohio pilot, given that only 20.7% received either no information or not useful information. This compares to 25.7% in Columbia and 54% in CG&E:

	CG&E	Columbia Gas	East Ohio
Information was not useful	23.1%	15.3%	17.7%
Neutral	28.5%	25.7%	40.1%
Useful	17.4%	48.6%	39.2%
Did not receive any information	30.9%	10.4%	3.0%

(Source: Staff Customer Surveys, Volume 2)

Because so many variables must be taken into account when evaluating why customers either did, or did not, participate in the choice programs, Staff can only hypothesize on the effectiveness of any given advertising campaign.

Although CG&E's campaign included a mix of print, radio, TV and unpaid media similar to the other LDCs, the Staff survey indicates that CG&E respondents were more likely to report they received either no information or information that was not useful. Staff suggests that this may be due to:

- The significantly larger pilot (CG&E's program was available to 360,000 customers-more than twice that of the Columbia or East Ohio programs);
- Narrow margins of savings available to residential customers failed to interest consumers in the program;
- The lack of aggressive efforts by marketers to sign customers failed to develop consumer interest;
- The lack of media interest due to narrow margins of savings available to its audience inhibited information dissemination;
- The mix of paid advertising methods (Columbia placed twice as many print ads as did CG&E).

Columbia Gas's marketing plan was integrated, but concentrated mainly on print advertising. The company did not use bill inserts aggressively or do a direct mail piece. Columbia still enjoys the highest level of interest and participation perhaps due, in part, to the length of time the program has been in operation. Also contributing to Columbia's success is the relatively isolated media market. Staff suggests that the company's success in public education may be attributable to:

- The large margin of savings generated interest in the program and prompted customers to notice information more readily;

- Great media interest spurred consumer interest in obtaining information;

- Well-placed advertising.

East Ohio Gas diversified its marketing plan equally among print, radio and television broadcast. The multiple versions of ads contributed to the educational value of the campaign, focusing on information that educated consumers about program specifics (*What You Need To Know About Energy Deregulation* and *The Top Ten Questions To Ask a Natural Gas Provider*). In addition, East Ohio sent out two direct mail pieces. Staff surveys for East Ohio's choice program indicate that only 52.4% of the respondents were interested in the program. This may be attributable to:

- The lack of a centralized media (the pilot area was small metropolitan and rural);

- The lack of electronic media interest given that the TV stations for the area are based in Cleveland for Canton customers and Parkersburg, WV, for Marietta customers and largely ignored a story geared only to its secondary audiences;

- Customer satisfaction with East Ohio Gas.

However, the combined percentage of people who either received useful information or were neutral about the information they received indicates that more than 70% of East Ohio's customers had some exposure to program information.

Staff surveys indicate that customers would like to receive multiple sources of information about the program:

	CG&E	**Columbia Gas**	**East Ohio Gas**
Direct mail	77%	77%	72.7%
Bill inserts	53.1%	54.2%	55.2%
Newspaper articles	19.7%	26.2%	19.7%
1-800 Hotline	16.8%	13.1%	15.3%
TV advertisements	16.2%	15.7%	13.3%
Newspaper advertisements	14.9%	20.9%	13.1%
PUCO internet site	14.6%	8.9%	9.6%
Radio advertisements	7.8%	4.5%	3.9%
Public meetings	6.1%	6.4%	7.4%

(Source: Staff Customer Surveys, Volume 2)

Conclusions

CG&E was faced with educating more than twice the number of consumers than in either of the other two programs. CG&E was unable to generate much electronic media interest in the gas choice program, therefore unpaid media played a lesser role in making the public aware of the program and how to participate than in the other programs. Despite those hurdles, CG&E ran a seemingly well-balanced campaign not withstanding the relatively low rates of customer awareness or interest in the program. CG&E's educational efforts following the conclusion of the moratorium, however, showed a marked decrease. The low customer interest levels in the area suggest that there is a need for more research into effective means and modes of communication. Continued CG&E Staff experience with the public outreach, marketing and public relations aspects of the customer choice will aid the company in future educational programs.

Columbia Gas of Ohio hired an advertising firm to research its key audiences and to design appropriate educational materials for the Toledo pilot program. Columbia's concentration on print media and unpaid media efforts seemed to pay off in the high level of public awareness.[1] Given the proposed expansion of the program to Columbia's entire service territory and the rural, urban and suburban nature of the area, Staff suggests that Columbia should consider using direct mail and bill inserts (sponsored by the company) in the future to reach such diverse populations. Maintaining their level of activity in the expanded territory is vital to the success of the program.

East Ohio Gas' diverse, comprehensive campaign appeared to reach its intended audiences and spurred a growth of enrollment comparable to Columbia Gas of Ohio's program during the first six months of the program (Columbia's pilot had a sign-up rate of 25.7 percent at six months and East Ohio Gas had a sign-up rate of 21.5 percent at six months). The print ads provided educational materials for consumers. The TV and radio ads resulted in consumer awareness of the program and helped to allay consumer skepticism. In any possible roll-out territories, East Ohio will need to adequately research the many different audiences and work with PUCO Staff to quickly design an educational plan specific to each demographic and geographic area. East Ohio should also consider greater usage of unpaid media such as press releases.

The East Ohio Gas marketing and public education plan seemed to include the most appropriate mix of methods of communications and messages communicated. At the beginning of any future roll-outs or expansions of the choice programs, customers may be receiving a great deal of information about the choice program from marketers and other parties (see the Staff's recommendations in the section on moratoriums), but it will be the role of the LDC, PUCO and OCC to provide the *educational* information that enables the customer to make informed decisions. East Ohio Gas's advertising included the types of information that meets this goal.

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[1] *A Baseline Study of the Columbia Gas of Ohio Customer Choice Pilot Program: A Customer Perspective.* p.13. 88.36 percent of respondents indicated some interest in the program.

Recommendations

- The LDCs should be required to execute comprehensive, integrated marketing plans for public education in any future pilots or program expansions. Further, the LDCs should work with the PUCO Staff to maximize the educational content of its advertising.

MORATORIUMS

During the beginning of each of the choice programs, there was a moratorium on marketer advertising to limit the array of messages customers are exposed to prior to deciding to participate and selecting a supplier. While the moratoriums were of different lengths and conditions for each of the programs, the goal was to establish a period of "pure education" in which only the unbiased messages of the Commission, the LDC and the Ohio Consumers' Counsel were conveyed to customers. During this time, marketers were prohibited from any form of advertising or customer outreach regarding the program.

Cincinnati Gas & Electric: The CG&E moratorium was Commission-ordered and was in effect from the time the tariffs were approved on July 18, 1997, until September 1, 1997 (approximately 45 days). During the moratorium, CG&E completed all of its paid advertising customer education efforts. After the conclusion of the moratorium, CG&E did little to promote customer awareness of gas choice.[2] Marketers complied with the moratorium with the exception of two complaints. Despite extensive efforts by the Commission, OCC and CG&E to educate the public and promote awareness of the program, awareness of the program remained low and participation rates were lower than in the other two programs.

	CG&E	Columbia Gas	East Ohio
Interested	48%	72%	52.4%
Participated	1.3%	31.1%	19.3%

(Source: Staff Customer Surveys, Volume 2)

Columbia Gas of Ohio: The Columbia moratorium was conducted by agreement of the stakeholders and was in effect from January 9, 1997 and lasted approximately 14 days. During this time, marketers voluntarily refrained from contacting or enrolling customers. However, following the moratorium, marketers vigorously promoted their service to residential and small business customers. The result was customer confusion about offers, prices and determining if the program was beneficial. While customers showed a high awareness of the program, the

[2] It is important to note that both Columbia and East Ohio continued awareness efforts following the moratorium. Some marketers noted CG&E's lack of post-moratorium efforts as a program participation and awareness inhibitor.

education level of the customer remained low. Confusion over price and marketers' offers as well as the terms of the program served to create customers' skepticism in the program[3].

East Ohio Gas: The East Ohio moratorium was Commission-ordered and was in effect from the signing of the Order on July 2, 1997 until October 1, 1998 (approximately 90 days). During the moratorium, East Ohio executed most of its customer education efforts, but continued to promote the program after the moratorium period ended. Marketers generally complied with the moratorium. During the moratoriums, there were extensive efforts by the Commission, OCC and East Ohio that resulted in high level of program awareness among consumers.

Marketer Interviews: In its interviews with 16 marketers participating in the programs, Staff asked: "What are your thoughts regarding the advertising moratorium the Commission imposed at the start of the EOG and CG&E programs? Should such a moratorium be applied to expanded service areas or service areas of other LDCs?" Below are brief summaries of the marketers' responses:

- No opinion.
- "Good idea. Could be even longer."
- "Opposed to moratoriums in principle. If there has to be one, keep it short. There should no advertising at all allowed during a moratorium. Moratoriums work to the advantage of smaller marketers."
- "The 45 day moratorium in the CG&E territory was a good idea, but it should have been longer, perhaps 3 months."
- "The idea of a moratorium is okay, but it should either be enforced or abandoned. Some marketers cheated in the CG&E program."
- "Moratoriums are okay, but some marketers pushed the envelop."
- "Not a bad idea in concept, but should be short, perhaps 2 weeks."
- "No problems with the EOG moratorium or its length."
- "Moratoriums are a great idea. Kept a level playing field. 60-90 days is about right."

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[3] *A Baseline Study of the Columbia Gas of Ohio Customer Choice Pilot Program: A Customer Perspective.* p. 15. 72.9 percent listed pricing options as confusing. p.26. 46.97 percent listed skepticism, lack of information or confusion as reasons for not participating.

- "Moratoriums should be short and apply to all advertising. CG&E (Staff suspects that the marketer was referring to the utility's affiliate here) had an advantage due to the existing large customer transportation program."

- "Good idea, but not sure it was effective."

- "There were some abuses, but not a big deal. Any additional moratorium in the CG&E service area is not necessary."

- "Good idea. Should be imposed during expansion of the programs. 6-8 weeks is the appropriate length. EOG had the ideal education campaign."

- "A good effort was made to minimize customer confusion, but not sure that it worked. An education program is necessary, but it should be handled by the market. Maybe some sort of pre-advertising is needed for new programs, but not sure a moratorium is necessary."

- Good idea. The longer the better to keep the affiliate from getting an unfair head start."

- "Good idea, but some marketers did not play fairly. PUCO was ineffective in enforcement. Should be a 60-day moratorium followed by 60 days of advertising before transportation to customers could commence."

Discussion

An analysis of the marketers' opinions regarding the advertising moratoriums reveals that 13 of the 16 marketers Staff interviewed support the concept of a moratorium. Ten marketers expressed an opinion about the length of the moratoriums. Three felt that they should have been longer, three felt that they should have been shorter, three felt that they were about the appropriate length, and one stated that 60 days is the appropriate length. Five marketers commented that enforcement of the moratoriums was difficult.

Regarding the marketers' allegations that some marketers cheated during the moratoriums and that PUCO enforcement was difficult, Staff agrees that some marketers probably did cheat and that PUCO enforcement could have been improved. One company reported instances where it received computer batch files from some marketers listing numerous (more than 100) customers who had agreed to switch to those marketers on the first day or two after the moratorium expired. This provides strong evidence that some marketers marketed and pre-enrolled customers during the moratoriums. Staff received complaints from some marketers alleging that other marketers were violating the moratorium by advertising during the program and/or pre-enrolling customers. Staff investigated these allegations; however, it was not possible for Staff to conclusively prove any violations. In its orders approving the program, the Commission crafted the moratorium so that it only applied to advertising and enrollment for the choice programs. The Commission was careful to indicate that the moratoriums were not intended to restrict marketers' rights to promote and enroll customers in existing transportation programs or perform any sort of name recognition advertising. These limitations, despite being appropriate, hampered

Staff's efforts to verify that moratorium violations were actually occurring. For example, wording in some marketers' advertisements when read one way appeared to promote an LDC's choice program, but when read another way it could have simply been name recognition advertising or promotion of existing programs. Similarly, Staff was unable to determine if direct solicitation of small commercial customers by marketers in the CG&E service area was promotion of CG&E's existing Firm Transportation (FT) program or its Choice program. Although they were eligible for both programs, it was not economically viable for a number of small commercial customers to participate in the FT program. There was no practical means, however, for Staff to determine that a marketer was actually promoting the Choice program under the guise of promoting the FT program.

Conclusions and Recommendations

In principle, Staff believes that there is sufficient value in the moratorium concept to recommend implementing it in future pilots or program expansions. Staff believes that the opportunity for customers to learn about the program in clear, unbiased and accurate terms serves to promote the overall success of the program in terms of customer confidence and participation. In the new environment of utility choice, customers must have the opportunity to learn about the program and its terms and conditions, in the absence of the pressure that marketers may exert on customers to enroll with them. The moratorium concept provides such an atmosphere.

Options: There are options for the terms of a moratorium imposed in future pilots or expansions:

- The Commission could order no moratorium or conditions on enrollment periods or advertising.
- The Commission could order a moratorium similar to the ones that took place in the CG&E and East Ohio pilots - that is, a complete enrollment and advertising moratorium on marketers allowing only for LDC, PUCO and OCC to conduct consumer education during the beginning of the program.
- The Commission could order a moratorium on enrollment, but allow for marketer advertising during that period.

Staff recommends the Commission consider adopting the third option.

Length of Moratoriums: Each of the three programs included different lengths of time for the marketing moratorium and different guidelines for marketer contact with customers. Staff recommends a 60-day moratorium on customer enrollment or pre-enrollment in future programs or expansions. Staff believes that 60 days provides enough time for production and dissemination of educational materials by the LDC, PUCO and OCC, but would not inhibit customer interest and sign-up. The moratoriums should be on enrollment or pre-enrollment only. Staff includes in the definition of enrollment the sign-up of a customer to participate, the agreement of any customer to participate in the future (pre-enrollment) or the collection of any customer names for enrollment upon the end of the moratorium.

Advertising During the Moratoriums: Moratoriums on advertising by marketers have proven to be impractical, if not impossible to enforce. Some marketers have also claimed that the moratoriums on advertising may be interpreted as an infringement on marketers' rights to promote their products. Staff is also concerned that LDC advertising during the moratorium may have provided undue benefits for the LDC's affiliate since their names are similar.

Staff also recognizes the challenge of the increased size of the program in the expanded territories and the possible limited financial resources of the LDCs, PUCO and OCC to educate consumers. The geographic area and number of customers (approximately 1.3 million for Columbia and approximately 1.2 million for East Ohio) will require greater allocation of resources. PUCO Staff survey results indicate that despite the comprehensive educational and advertising efforts of the LDC, PUCO and OCC during the previous moratoriums, program awareness remained low. The sheer volume of customers to reach requires a great financial commitment and a varied and intense communications plan optimizing the number of promotional contacts per individual.

In an effort to provide customers in such an expansion with as much information as possible about the program, Staff proposes allowing marketers to make customer contact through its paid promotions. Allowing marketers to advertise would serve to multiply the number of parties involved in reaching the customers, increasing the amount spent on reaching customers and intensifying the level of communications with customers.

Specifically, Staff notes at least five reasons Marketers should be allowed to advertise during a moratorium on customer enrollment:

1. During the traditional moratorium, the LDC's affiliate, using a similar name and/or logo, has gained a possible advantage in terms of name recognition that unaffiliated marketers were not afforded because of the LDCs lone ability to advertise;

2. The expanded territories include a much larger geographic and population size than the original pilot areas. Advertising to such an greatly increased audience will take more time, money and effort. Increasing the number of advertisers increases the amount of information that may potentially reach a customer;

3. Marketers have contended that a prohibition on their rights to advertise during the moratorium placed an undue restriction on their right to communicate;

4. Customers have indicated that the more contacts they receive regarding customer choice, the more interested they are in the program and the more likely they will be to seek additional information;

5. Sixty days of price information provides enhanced opportunity for customer to sort out the best offer.

Further, to ensure clarity of the marketers' messages versus enrollment, marketers should place a prominent notice – at least 12 point font size and appropriate near-headline placement within the ad – within all advertising: "Customer enrollment begins on (the date specified by Commission Order)."

Staff Review and Authority: Staff also proposes a pre-distribution review of all marketer promotional material by PUCO Staff to ensure that all marketer messages are, in fact, clear and accurate portrayals of the programs. Customers will receive the benefit of receiving multiple pieces of information in various mass media ways, without the added pressure of signing up with any one marketer prior to having the opportunity to receive several marketers' information.

Staff recommends that the Commission direct the LDCs to modify the marketer code of conduct sections of their choice program tariffs to prohibit moratorium violations. This would subject marketers who violate the moratoriums to the same penalties imposed for other marketer code of conduct violations.

Staff recommends that the Commission direct the LDCs to include a statement in their customer choice tariffs that requires participating marketers to cooperate with any Staff investigations regarding alleged moratorium violations, including the production of any documents the Staff may need to complete its investigation.

Recommendations

Specifically, Staff recommends:

- Enrollment in the program be prohibited for a period of 60 days following the Commission's signing of the Order on the programs or until August 1, 1998 whichever comes first. Marketers shall not sign any customers during that time. Staff includes in the definition of enrollment the sign-up of a customer to participate, the agreement of any customer to participate in the future (pre-enrollment) or the collection of any customer names for enrollment upon the end of the moratorium. The Staff will specifically monitor the number of customers reported as enrolled in the first days following the moratorium to determine if any activities of pre-enrollment may have taken place and act on those that appear to be a violation of the terms of the moratorium.

- During the 60-day period, marketers may advertise.

- During the 60-day period, marketers will submit all advertising, including print outdoor, direct mail, radio or television scripts to the PUCO Staff for review prior to dissemination to ensure compliance with the marketer Code of Conduct's rule on clear and not misleading information. Further, to ensure clarity of the marketer's message regarding enrollment, marketers will place a prominent notice – appropriate font size and placement within the ad – within all advertising: "Customer enrollment begins on (the date specified by Commission Order)."

- After the moratorium, marketers will be required to continue to submit advertising to the PUCO Staff for review on an on-going basis to ensure clarity and accuracy of the portrayal of the program.

Given that CG&E's entire service territory is already involved in the customer choice program, the moratorium proposals do not apply to CG&E. CG&E should not institute any additional moratorium periods.

APPLES TO APPLES PRICE COMPARISON CHART

PUCO Staff published the first Apples to Apples price comparison chart of suppliers' offers in March, 1997, initially for the Columbia program. The chart was created to address the complex issue of price comparison. For example, supplier offers in Toledo included a 12-month fixed rate, fixed rates for the winter season, variable rates in the summer, percent discounts off the entire bill and rebates from gas costs.

The charts compared what the different marketers' offers would mean annually based on an average usage during the past 12 months. The final product was a side-by-side estimate of each marketers' annual price, compared to the annual price under the past 12 months' GCR.

In addition, the Apples to Apples charts provides other program details like contract terms and lengths, suppliers' offers and estimated annual cost and supplier phone numbers.

Customers were able to compare, on an apples to apples basis, the cost of gas under each marketer.

The chart was publicized through efforts of the PUCO and later, the LDCs, through radio, TV, and extensive print coverage. The initial intent was to have the daily newspapers in the pilot areas print, in its entirety, the comparison chart on a monthly basis. The print media reception to this idea was varied with rural papers printing the chart while larger-circulation papers did not. The PUCO also offered a toll-free phone number for residential consumers to call to request the chart and be added to a mailing list for updates. More than 15,000 Ohioans are currently receiving updates. A sample Apples to Apples chart is included at the end of this section.

Discussion

The residential customer's need for the price comparison is evident in the results of the Staff's surveys.

Customers, when asked what information would be most helpful in determining whether to participate in gas choice, responded most often with "price comparison":

CG&E	Columbia Gas	East Ohio
60.3%	43.1%	35.3%

(Source: Staff Customer Surveys, Volume 2)

Customers asked what aspect of the customer choice program has been most confusing responded most often that comparing prices was most confusing:

CG&E	Columbia Gas	East Ohio
41.3%	55.6%	49.5%

(Source: Staff Customer Surveys, Volume 2)

Marketers, on the other hand, voiced differing opinions on the concept of a price comparison and the Apples to Apples chart. Their opinions ranged from support of the chart and including it in their advertising to comments that it should be discontinued.

Conclusions

Staff believes that the overwhelming residential response to questions on the surveys regarding what information was needed to make a decision to participate in gas choice and what aspects of the program were most confusing merits continuing to produce the Apples to Apples chart in the expanded customer choice programs. The chart can provide customers much of the needed information and can have the effect of increasing participation in the future.

Recommendations

- Staff should continue to produce Apples to Apples on a regular basis for all three customer choice programs. Staff should be available to work with marketers in presenting the offers in a most accurate apples to apples comparison basis.

- Marketers should be required to apprise Staff of any intention to participate in any similar price comparison activity or product so that Staff can work with any parties necessary to ensure that customers are not unduly confused by seemingly contradictory reports of marketers' offers.

- Staff should explore and implement additional ways to publicize and distribute Apples to Apples. Staff surveys show that less than 15 percent of survey respondents were aware of the existence of the Apples to Apples price comparison chart in the three customer choice programs. LDC's should cooperate with Staff in making residential customers aware of this valuable tool.

PUBLIC INTEREST CENTER STATISTICS

About 95% of the approximately 4,500 contacts the commission's Public Interest Center received on the customer choice program were to request informational literature, such as PUCO brochures, the list of approved marketers, and the "Apples to Apples" chart. The other 5% involved billing questions, complaints about marketers, and complaints about the choice program.

Billing questions came from customers who

- expected to see greater savings on their natural gas bills,
- did not realize they would be charged to have the LDC deliver the natural gas, and
- did not know they would be charged a sales tax on the commodity
- did not receive monthly bill.

Marketer complaints primarily arose from customers who

- had enrolled with marketers but had yet to receive gas from them,
- wished to break their contracts to switch to other marketers either to get cheaper rates or because they were unaware of the additional marketers,
- were unhappy about door-to-door solicitation,
- bills that were delivered late by the LDC on behalf of the marketer.

Program complaints involved customers opposed to the choice program and customers who felt the program should be expanded to other service territories.

Columbia Gas of Ohio

As of March 1, 1998, the PUCO had received 2659 contacts on COH's customer choice program. Of these, 2530 (95.1%) were merely inquiries; only 129 (4.9%) had specific concerns about the program. The following table shows the number of customer contacts by category.

Table 1: Columbia Gas of Ohio Customer Choice Contacts

Category	Percent of Total Contacts	Number of Contacts
Inquires	95.1%	2530
Billing Question	1.5%	40
Complaint about Marketer	2.6%	68
Complaint about Program	0.8%	21
Total Contacts		***2659***

The Cincinnati Gas & Electric Company

Of the 920 contacts the PIC received on the CG&E customer choice program, 885 (96.2%) were inquiries and 35 (3.8%) specific concerns regarding the program. The table below gives the number of calls in each category.

Table 2: Cincinnati Gas & Electric Customer Choice Contacts

Category	Percent of Total Contacts	Number of Contacts
Inquires	96.2%	885
Billing Question	1.4%	13
Complaint about Marketer	1.2%	11
Complaint about Program	1.2%	11
Total Contacts		***920***

The East Ohio Gas Company

The PIC received 861 contacts about EOG's customer choice program. Eight hundred (92.9%) were inquiries, and 61 (7.1%) had specific concerns on the program. The succeeding table shows the numbers of calls and their respective categories.

Table 3: East Ohio Gas Customer Choice Contacts

Category	Percent of Total Contacts	Number of Contacts
Inquires	92.9%	800
Billing Question	4.8%	41
Complaint about Marketer	1.2%	10
Complaint about Program	1.2%	10
Total Contacts		***861***

Conclusions

The majority of contacts regarding the choice program were inquiries from consumers whose interest had been piqued and who were seeking either additional information about the program or literature on its various aspects. Only a few consumers called with specific concerns. Most of these concerns arose because the consumers believed their savings would be greater or because they were unaware they would be charged for various items on their bill, such as sales tax on the commodity or the LDC's service and delivery charges. Additional questions came from customers who had yet to receive a bill more than a month after switching marketers.

Recommendations

The Staff recommends the Commission direct Staff to coordinate the sharing of customer comment and complaint data for the choice programs with the Ohio Consumers' Counsel.

PUCO

APPLES TO APPLES

NATURAL GAS RATE PLANS FOR RESIDENTIAL CUSTOMERS

March 25, 1998

Average annual cost estimates for the fixed rate plans are based on average household usage of 1100 CCF** for the past twelve months (individual use varies). Average annual cost estimates for plans offering a percentage off Columbia Gas of Ohio's (CGO) GCR are based on CGO's GCR for the past four quarters. Actual savings could be lower or higher than the estimates provided as CGO's GCR is adjusted quarterly throughout the coming year. Marketers may offer new fixed rate plans at any time and variable rates are subject to change. For questions concerning this data, please contact the Public Utilities Commission of Ohio's hotline at 1-800-686-PUCO (7826) or 1-800-686-1570 for TTY-TDD hearing impaired.

MARKETER	PRICE OPTIONS	TERMS OF CONTRACT Duration	AVERAGE ANNUAL COST*
COLUMBIA GAS OF OHIO	**Current Gas Plan**	-	**$744.50**
COLUMBIA ENERGY SERVICES (888)224-6622	Fixed at $.348 per Ccf	one year	$ 702.71
COMMONWEALTH ENERGY (800)928-0636	a) 10% less than the total monthly Columbia Gas of Ohio bill b) Fixed at $.335 per Ccf	one year one year	$670.05 $668.96
CONSTELLATION ENERGY (888)232-7267	Fixed at $.380 per Ccf	one year	$740.11
ENRON (888)913-6766	20% lower than Columbia Gas of Ohio's expected gas cost	one year	$679.20
FSG ENERGY SERVICES (888)367-4493	a) Variable Rate b) Fixed rate for Winter and Variable for Summer	6 months 6-12 months	$661.42*** Can not determine
INTERSTATE GAS SUPPLY (800)280-4474	Fixed at $.332 per Ccf	one year	$683.87
KEYSPAN ENERGY SERVICES (888)539-7726	Fixed at $.340 per Ccf	one year	$693.22
MIAMI VALLEY RESOURCES (800)431-8723	a) Fixed at $.340 per Ccf b) Variable Rate	one year monthly	$693.22 Can not determine
STAND ENERGY CORP. (800)598-2046	Variable but no more than $.370 per Ccf	one year	$693.92***
UNITED GAS MANAGEMENT (888)427-4872	Fixed at $.353 per Ccf	one year	$708.66
VOLUNTEER ENERGY CORP. (800)860-3674	- - - - - Offer Currently Unavailable - - - - -	-	-

* Includes monthly service and distribution charges paid to CGO, cost of gas paid to marketer and applicable taxes.

** CCF stands for 100 cubic feet of natural gas and GCR stands for Columbia Gas of Ohio's Gas Cost Recovery. The GCR is adjusted quarterly to reflect Columbia Gas of Ohio's actual gas cost. The current CGO GCR is $.36724 per Ccf.

*** Calculations based on historical rates from April 1, 1997 to present.

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SECTION 3
UTILITY ISSUES

In its Opinion and Orders in Case Nos. 95-656-GA-AIR, 96-1113-GA-ATA, and 96-1019-GA-ATA, the Commission directed CG&E, Columbia and East Ohio to report to the Commission on "whether marketers were able to get their gas injected into storage and delivered to customers, whether imbalance problems exist, whether reliability problems occurred and whether there was a need to issue Operational Flow Orders (OFOs)." These areas of the Customer Choice Programs (CCP) address the physical operations of a utility's system which ensure that sufficient quantities of gas are available to meet customers' daily requirements.

In the course of its investigations into the physical operations of these utilities' systems, Staff has relied extensively on the data requests, findings, conclusions and recommendations presented by external auditors employed by the Commission. These external auditors were selected by the Commission to evaluate CG&E's, Columbia's and East Ohio's gas procurement policies and practices in their respective current GCR proceedings. As part of these audits, the external auditors examined the contracts that were in place to provide service to sales customers, as well as balancing system requirements with available supplies of natural gas. The external auditors based their findings, conclusions and recommendations on the results of CCPs through January and February 1998. Staff also reviewed the interim Customer Choice Program reports submitted by CG&E, Columbia and East Ohio for additional documentation of CCP results. Additionally, Staff has incorporated into this report the on-site audit responses and the utilities' spokespersons' comments at public forums.

SYSTEM OPERATIONS

Staff finds that CG&E, Columbia and East Ohio managed their capacity contracts and systems consistent with their tariff provisions and that the marketers, except for a few instances noted below, delivered gas as directed by the utilities. To resolve future differences between marketers' deliveries and utility directed deliveries, Staff recommends specific tariff modifications which are discussed elsewhere within this section.

Staff agrees with the auditors that it is critical for the operations of a utility's system to balance customers' demands with deliveries. Currently, at the pilot program level, CG&E, Columbia and East Ohio have services available which enable them to match their systems' requirements with deliveries into their system. If CG&E, Columbia, and East Ohio allow existing contracts with interstate pipelines and suppliers to expire, the marketers will need to assemble services and suppliers of sufficient quantity and quality to replicate the delivery responsibilities once held by these companies. Without the ability to match demands with deliveries, the systems' integrity would be jeopardized with detrimental impacts on the quality of service to all customers.

Staff has assembled this section of the report to mirror the Commission's Opinion and Orders in cases as follows: the ability of marketers to utilize storage services; imbalance provisions and problems (daily, monthly, and reconciliations); reliability issues; and the need to issue OFOs. Within these areas, Staff incorporated brief discussions of CG&E's, Columbia's and East Ohio's tariffs, along with the companies' and marketers' abilities to operate under these provisions. Staff included its conclusions and recommendations (as applicable) at the end of each area.

ABILITY OF MARKETERS TO UTILIZE STORAGE SERVICES

CG&E

No marketer elected assignment of storage service and, therefore, Staff cannot reach a conclusion as to CG&E's ability to operate its contractual storage services on behalf of marketers under the CCP.

Columbia

Columbia had three marketers which elected assignment of storage and transportation service in place of Columbia's operational balancing service. The three marketers were able to inject gas into and withdraw gas from storage, as well as adjust nominated injection and withdrawal quantities based on actual weather temperatures which reduced or eliminated marketers' daily imbalances.

East Ohio

East Ohio's CCP required the assignment of transportation and storage capacity. However, East Ohio's CCP program was not operational (flowing gas to customers) until December 1997, which severely limited marketers' ability to inject gas into storage. Marketers were able to remove gas from storage as nominated.

Conclusions

Staff concludes that Columbia and East Ohio operated their storage services within the physical or contractual parameters contemplated by the CCP tariffs. Staff could not reach a conclusion on CG&E's ability to operate its storage services on behalf of the marketers.

IMBALANCE ISSUES

Daily Imbalances

CG&E's CCP tariffs provided for the "cash out" of daily differences between CG&E's targeted daily delivery quantities (DDQs) and marketers' actual daily deliveries. CG&E tracked the difference between the marketers' actual deliveries and targeted DDQs and cashed out the imbalances on a monthly basis. CG&E experienced small daily imbalances under its program.

Columbia's tariffs required marketers to deliver to the city gate directed DDQs based on the Company's projected demand curve. If the marketer failed to deliver quantities equal to the directed DDQ, Columbia could bill the marketer the higher of the fair market price of gas or the highest incremental cost of gas for that period of time. During the first year of the CCP, Columbia did not utilize these provisions in instances where marketers' daily deliveries deviated from directed DDQs. The external auditor for Columbia noted the daily imbalances in its report and recognized that if the CCP program is expanded, daily imbalances could affect the operation of the system and the costs borne by sales customers. Columbia also noted the daily imbalances in its report.

Columbia has taken the necessary steps to track the daily imbalances and has started to post daily imbalances on its electronic bulletin board (EBB). Posting the daily imbalances and cumulative totals to the EBB provides Columbia with the means of drawing to marketers' attention the magnitude of the daily and cumulative imbalances. Columbia has also notified each marketer in writing of its expectation that marketers deliver, on a daily basis, the directed quantities of gas.

In the Columbia CCP, Staff acknowledges the external auditor's concern that when there were considerable changes in the average daily temperatures (plus or minus 20 degrees Fahrenheit), marketers' delivered quantities of gas deviated substantially from the company's directed DDQs. The auditors indicated that the large deviation may be caused by the marketers lack of resources necessary to accommodate the large swings in customers' consumption. The lack of marketers' resources may have contributed to the large deviation, but Staff finds that Columbia's lack of enforcement of its tariff provisions provided the marketers the opportunity to deliver daily quantities that were not based on the demand curve, without any economic consequence.

East Ohio's CCP tariff provided for the "cash out" of daily differences between directed DDQs and marketer's actual daily deliveries. East Ohio tracked balances of its marketers' actual deliveries with directed DDQs on a daily basis and cashed out the daily imbalances on a monthly basis. The company also had imbalance trading provisions within its tariffs which permitted marketers to trade daily imbalances with one another. Through the utilization of its tariff provisions, East Ohio was able to minimize the daily imbalances under its program.

Staff recognizes that the 1997 - 1998 milder weather conditions may have resulted in lower daily imbalances being experienced by the companies. Staff is concerned that if marketers continue to rely on released or interruptible capacity to deliver directed quantities under these programs, that capacity could be recalled or curtailed, forcing marketers to replace capacity or be deficient in their directed daily delivery quantities.

Conclusions

Staff concludes that CG&E's and East Ohio's tariff provisions adequately ensure that the companies' directed or target DDQ were met on a daily basis by the marketers, with any over- or under-deliveries being cashed out. Columbia had the tariff provisions which provided it with the means to eliminate daily imbalances.

Recommendation

Staff recommends that Columbia utilize the provisions in its tariff to ensure that the marketers' actual daily deliveries are in balance with the Company's directed DDQs.

Monthly Imbalances

CG&E monitored the difference between the targeted DDQs and the marketers' actual daily deliveries. This difference was cashed out on a monthly basis under CG&E's daily balancing provision as discussed earlier. CG&E also tracked the difference between the target DDQs summed for a month and customers' metered consumptions (adjusted for unbilled revenue). The difference between monthly targeted DDQs and metered consumptions were reconciled quarterly.

Columbia monitored the difference between directed DDQs and marketers' actual deliveries and summed the difference on a monthly basis. Columbia also tracked the difference between marketers' actual deliveries and customers' metered consumption on a monthly basis. The differences between actual deliveries and metered consumptions were summed for the quarterly reconciliations.

East Ohio, like CG&E and Columbia, monitored the difference between directed DDQs and marketers' actual daily deliveries and summed the difference on a monthly basis. East Ohio utilized its cash out provisions to eliminate the daily imbalances between directed and delivered quantities. East Ohio is in the process of assembling the difference between directed DDQs and customers' metered consumptions (adjusted for unbilled revenue) for the first few months of the program. East Ohio will utilize the monthly differences between directed deliveries and customers' consumption in its reconciliation adjustment.

On a monthly basis, the differences between a marketers' actual daily deliveries and directed daily delivery quantities were relatively small. The monthly difference between marketers' actual daily deliveries and actual consumption for Columbia's program varied considerably. The same was true for the CG&E program, where the difference between the LDC's directed DDQs and customers' actual consumptions resulted in large deviations. East Ohio had not yet assembled the differences between directed DDQs and customers' actual monthly consumptions.

The large differences between monthly directed DDQ totals and monthly consumption may be due to the timing difference of when customers' meters were read (throughout the month) and directed DDQs which were summed at month's end. The auditors noted in the CG&E report that the reading of customers' meters throughout the month (called cycle billing) was a major contributor to monthly differences between directed DDQs and customers' metered usages.

Conclusions

Staff concludes that, on a monthly basis, the difference between directed daily quantities and marketers' delivered quantities were eliminated under CG&E's and East Ohio's programs. In the Columbia program, the company did not enforce its tariff provisions to eliminate the difference between directed DDQs and marketers' delivered quantities.

Reconciliation Adjustments

CG&E's tariff provisions allowed for the quarterly reconciliation of targeted daily delivery quantities (based on actual temperatures) with actual consumption by a marketer's pool of customers. The difference between targeted DDQs and metered consumption was eliminated through cash outs, storage transfers or adjustments to subsequent deliveries.

Columbia's tariffs provided for the quarterly reconciliation of the prior three months total marketer's actual deliveries to customers' metered consumptions. The difference between delivered quantities and consumed quantities was eliminated through cash outs, storage transfers or adjustments of subsequent delivered volumes.

In the CG&E and Columbia programs, the companies and the external auditors questioned the need to cash out monthly imbalances on a quarterly basis. The companies and auditors deliberated the benefits and detriments of annual reconciliations vs. those of quarterly reconciliations. Both groups believed that the annual reconciliations would reduce the magnitude of the quarterly adjustments through the net effects of positive and negative monthly imbalances over 12 months and would more appropriately incorporate 12 months of customer usage with 12 months of actual deliveries, thereby minimizing the cycle billing effect.

The external auditors for CG&E recommended that the quarterly reconciliation be closely monitored and that if the magnitude of differences (targeted vs. actual consumption) continues to increase, CG&E should consider changing from a quarterly to an annual reconciliation adjustment.

Columbia recognized the problems associated with the quarterly reconciliation and requested changing from a quarterly to an annual reconciliation in its application filed in Case No. 98-549-GA-ATA, on March 31, 1998. Columbia's application requested modifications to its existing CCP tariffs and statewide expansion of the program.

East Ohio's tariffs allowed the company to reconcile, on a monthly basis, marketers' directed DDQs against customers' metered consumptions (adjusted for unbilled revenue), if the difference exceeds five percent of the monthly directed delivery quantity. With an imbalance in excess of five percent, East Ohio would adjust the marketer's subsequent month's delivery quantities to eliminate the imbalance. If the monthly imbalance is less than five percent of the monthly directed quantity, East Ohio would carry forward the difference in the subsequent month with no adjustment in delivery quantities.

No less than annually, East Ohio will compare monthly directed DDQs less 12 months of customers' metered consumptions and will direct marketers to adjust subsequent months delivery quantities.

Conclusions

The Commission has not yet acted on Columbia's filing, but Staff finds the Company's request to change from a quarterly reconciliation to an annual reconciliation to be appropriate.

Staff concludes that the use of monthly or quarterly reconciliation adjustments may increase the magnitude of the imbalances (difference between directed deliveries and metered customers' consumptions) in subsequent months.

Recommendation

Staff recommends that the programs reconcile the differences between directed delivery quantities and metered customers' consumptions on an annual basis. The annual reconciliation should be during the summer months (June, July or August) to minimize the effects of weather and unbilled revenue. Staff recommends the Commission direct CG&E and East Ohio to file amended tariffs to implement this change.

RELIABILITY ISSUES

Marketers demonstrated their ability to deliver directed quantities of gas to the city gate under the existing weather and capacity conditions. However, this past winter's heating season was unseasonably warm, and the marketers' abilities to supply quantities of gas to the city gate at or above peak conditions was not tested. Because of the limited information, Staff is unable to state with any certainty that marketers' abilities to deliver daily quantities under severe weather conditions will mirror their performance during the 1997 - 1998 winter.

Recommendations

In all of the pilot programs, the issue of reliability has not been definitely tested. The Staff recommends the Commission direct the LDCs to notify Staff when marketer nonperformance begins to have an adverse impact on either system reliability or the delivery of gas to the marketer's customers.

ISSUANCE OF OPERATIONAL FLOW ORDERS

CG&E's tariffs allowed the company to issue operational flow orders (OFO) to meet system requirements. Under an OFO, marketers are directed to match deliveries with their customers' estimated usages. A marketer's failure to comply with CG&E's OFO could result in additional costs and possible termination from the program.

During the program, CG&E issued three OFOs due to unseasonably warm weather conditions and low storage injection capabilities. All marketers, except two, were able to match their deliveries with their customers' estimated usages. The two marketers both under-delivered quantities of gas to the city gate and were charged accordingly by CG&E.

Columbia's tariff provisions are similar to those of CG&E, in which marketers are required to match deliveries with their customers' estimated usage. Columbia was able to operate its system during the CCP without the issuance of an OFO.

East Ohio, like CG&E and Columbia, has tariff provisions which permit it to issue OFOs to meet its system's requirements. During the CCP, East Ohio was able to operate its system without the issuance of an OFO.

Conclusion

Staff concludes that the issuance of operational flow orders (OFO) on CG&E's system were followed by the marketers.

POTENTIAL GAS COST RECOVERY (GCR) MODIFICATIONS

Comments provided by marketers and the distribution companies focused on two distinct issues related to the continuation of the GCR in a competitive marketplace. First, the GCR is viewed as the target for evaluating marketers' prices and savings. The comments were uniform on this issue that the GCR is not an appropriate market price indicator. The various true-ups make it too volatile to use as a benchmark and risky for marketers to use for guaranteed percentage discounts off the GCR. None of the commentators had specific detailed recommendations on this issue, although one marketer suggested that a gradual phase-out of the GCR may be the best way to provide customers a better indicator of the market and better way of evaluating relative price offerings by marketers.

In Staff's opinion the GCR is not a price or pricing substitute, nor was it intended for those purposes. It is a mechanism for recovery of previously incurred gas costs. Its design is intended to minimize fluctuations in the amount of gas cost to be recovered from customers in subsequent quarterly periods. In this regard the GCR may be causing "interference" with comparisons and choices of market based offers.

Recommendation

The Staff recommends that the Commission require the distribution companies to explore several options to address this concern. The distribution companies should begin design of programs to out-source specific (discrete) geographic locations and/or specific (discrete) customer groups. This would be a form of "choice" for an aggregated group. Efforts to explore creative ways of changing or eliminating access to GCR service should be made. The companies should begin an exploration of unbundling, or deaveraging, the GCR. There are three actions associated with unbundling and deaveraging. First, at a minimum the EGC, and preferably all component parts, of the GCR should be separately listed on bills. Second, the companies should begin an analysis of how the GCR can be deaveraged and the results of deaveraging. The GCR is a single value or product (quotient) of a weighted averaging of a number of elements and three additional adjustments (Actual Adjustment, Reconciliation Adjustment, and Balancing Adjustment). The deaveraging could be by component and/or by class or type of service.

All of the above listed options should be explored because it is likely that no one approach, at this time, will prove to be successful in all cases. The companies should meet with the Staff to outline how each option could be explored, designed, and implemented and to provide ongoing status. Staff will report regularly to the Commission. The company evaluations and discussions with Staff should be completed within 90 days. Other stakeholders are also invited to meet with Staff and Commissioners on this important issue.

OBLIGATION TO SERVE

A significant consensus comment from marketers and the local distribution companies related to the GCR is that it is inextricably tied to the utility's obligation to serve. That obligation is viewed as requiring a regulatory oversight of the prices charged to those customers that remain on the GCR. Many commentators recommended a bidding process be used in lieu of the GCR. The winning bidder would accept the obligation to serve while providing a bid price that would be more reflective of a market price. As a transition mechanism, certain subgroups of relatively homogeneous customers could be identified and the default provider obligation for that group would be bid out.

On February 17, 1998, the Commission continued its Gas Forum Series on the subject of obligation to serve. The Forum discussion recognized the diversity of the subject and distinguished the obligation to procure supply from an obligation to deliver (facilities based), from an obligation to act as operator or controller, and from an obligation as supplier of last resort. It resulted in four topics to be addressed by the Ohio gas industry through the Ohio Gas Association:

- Distinguish the GCR from the merchant function for those companies that wish to continue the regulated merchant and GCR;
- Provide for individuality of operating company reserve margins;
- Consider "products" to be provided to customers for interruptible service to protect system deliverability;
- Distinguish the issues of force majeure and price majeure, where commodity is diverted for economic gain.

The industry address to these issues is expected May 15, 1998. At that time the Forum will reconvene to review the responses and develop a 90 day action plan.

The discussion of the larger issue of obligation to serve is separate and apart from the proposed GCR reforms outlined above. Those GCR reforms are critical to choice program success while the obligation to serve issue represents a larger, more generic policy issue affecting all natural gas companies. Thus, progress on GCR reform for choice companies should be on a separate and more aggressive track than the overall industry-wide discussions on obligation to serve.

AFFILIATE CODE OF CONDUCT

During the creation and planning phase of the pilot programs much time and effort was spent on producing workable affiliate codes of conduct. For the most part it appears this effort was successful because during the Staff's marketer interviews, Staff heard very few complaints about marketing affiliates receiving preferential treatment. However, most parties did mention the name and logo as being an impediment to "level" competition (This will be discussed in the following section).

The affiliate Codes of Conduct in CG&E's and Columbia's programs are essentially identical (Columbia has one additional requirement). They state:

1. The utility must apply tariffs in a like manner.

2. The utility must enforce the tariffs.

3. The utility may not give its marketing affiliate or customers of its affiliate preference over non-affiliated gas suppliers. For purposes of the Company's firm transportation program, any ancillary service provided by the Company, e.g., billing and envelope service, that is not tariffed will be priced uniformly for affiliated and non-affiliated companies and available to all equally.

4. Company must process all similar requests for transportation in the same manner and within the same approximate period of time.

5. Company shall not disclose to anyone other than a Company employee, any information regarding an existing or proposed gas transportation arrangement, unless authorization is granted.

6. If a customer requests information about suppliers, the Company shall provide a list of all suppliers operating on its system, but shall not endorse any supplier nor indicate that any supplier will receive preference because of a corporate relationship.

7. Before making customer lists available to any supplier, including any Company marketing affiliate, Company will post on its electronic bulletin board a notice of its intent to make such customer list available.

8. Company will, to the extent practicable, separate the activities of its operating employees from its affiliate marketing employees in all areas where their failure to maintain independent operations may have the effect of harming customers or unfairly disadvantaging unaffiliated suppliers under the Company's transportation programs.

9. Company shall not condition or tie its agreements for gas supply or for the release of interstate pipeline capacity to any agreement by a gas supplier, customer or other third party in which its marketing affiliate is involved.

10. Company and its marketing affiliate shall keep separate books of accounts and records.

11. Neither the Company nor its marketing affiliate shall communicate the idea that any advantage might accrue in the use of Company's service as a result of dealing with its marketing affiliate.

12. Company shall establish a complaint procedure for issues concerning compliance with these standards of conduct.

In addition, Columbia's code also states:

13. If the Company offers its affiliate or a customer of its affiliate a discount, or fee waiver for transportation services, balancing, meters or meter installation, storage, standby service or any other service offered to shippers, it must, upon request, prospectively offer such discounts, rebates or fee waivers to all similarly situated non-affiliated suppliers or customers under similar terms and conditions.

The East Ohio Code of Conduct is written in a different format. It generally requires the same standards; however, Staff would suggest East Ohio adopt CG&E's and Columbia's code of conduct, including the additional Columbia requirement, creating one uniform standard which could be applied homogeneously in Ohio. Several marketers stated during the interview process that whenever possible they would like uniformity in rules and guidelines governing the Ohio programs. The marketers feel this uniformity can alleviate some of the administrative hurdles new entrants face.

Recommendations

Staff believes concerns regarding a utility's affiliated service company, which may provide services for the regulated and non-regulated portions of the business, should be dealt with up front through the Affiliate Code of Conduct. Of particular concern are those in which the non-regulated service company can share customer information, including usage history, with its non-regulated marketing affiliate thereby implicitly breaching the code of conduct provisions. Staff feels this could give the affiliated marketing company an unfair advantage. Staff recommends the Commission reiterate that the prohibition in the Affiliate Code of Conduct against sharing information between the regulated and non-regulated affiliates applies also to the non-regulated service company.

Also, gas procurement and capacity release practices have the potential for "gaming," whether done by a common service company or different affiliated companies. East Ohio, for example has different divisions of the same service company (CNG Services) purchase gas for the regulated and non-regulated entities. Although CG&E has different companies under the Cinergy umbrella handle procurement, these entities do report to a common VP. Columbia purchasing appears to have the greatest separation, with two distinct companies doing the purchasing which do not meet on the organizational chart until the CEO level. However, if purchasing is monitored by one group (a service company, VP or even Chairman), for the regulated and non-regulated entities, the economies of scale may not be shared equitably and the potential for "insider trading" exists. Although Staff did not see any evidence that any such abuse was taking place, this issue needs to be addressed before full implementation of the programs takes place.

Recommendations

Staff recommends that the LDCs meet with Staff within 90 days of the issuance of the Order in this proceeding to discuss development of a procedure by which Code of Conduct requirements directed at the LDC/affiliate relationship can be audited or otherwise verified.

To conclude, the Affiliate Code of Conduct was established to minimize any favoritism a utility might give to an affiliate marketer. While the codes seem to have prevented wide spread abuse, the Staff believes an inherent incentive still exists to favor an affiliated marketing company over a nonaffiliate. Therefore, the Staff will continue to monitor the compliance with the codes of conduct by aggressively investigating marketer and customer complaints. This recommendation is less cumbersome than the original Staff suggested audits, but does allow Staff the opportunity to monitor the emerging competitive market for potential anti-competitive behavior.

AFFILIATE BRANDING

Virtually all of the parties on record believe the use of the name and logo (or similar names and logos that could be confused for the regulated utility) of the regulated company by the affiliated marketing company in promotional and advertising spots enhances the name recognition and customer awareness of the affiliated marketing company. Some feel that complete restriction is the only way to solve the problem, while others believe no restrictions are necessary. These opinions may reflect on the competitor's place in the market.

Discussion

Proponents of complete restriction have argued the ratepayers created the value of the company name and logo by paying, through rate base, for the creation and mailing of utility bills and bill stuffers (direct mailings). This information includes the name and logo, and it could be contended that customers should not be exploited by its use. Some believe this is equivalent to asking customers to pay for the direct marketing which they receive, not in terms of an additional expense in the final product, but up front before a selection on a product is made.

During Staff interviews, one marketer stated that the use of the name and logo is such a substantial advantage, that it is very difficult to overcome. They believe, ideally, the marketing affiliate should be prohibited from using the company name and logo.

The proponents of use without restriction, primarily utilities, have argued that the company's management created the value of the name and logo, not the customers. Also it has been suggested that the cost associated with creating name recognition (promotions), have often been excluded from rates, meaning the shareholders own their rights.

Finally the argument for allowing the use of the name and logo in Ohio is enhanced by the fact the non-affiliated marketers have been successful in signing customers during the pilot programs. Requiring them to switch names in mid-stream could lead to customer confusion. The affiliated marketers will argue that they spent money on creating name recognition and should not be forced, after the fact, to change their name.

This issue has recently been debated in multiple jurisdictions. In the California Electric Restructuring docket, parties argued that use of the utility's name and logo could lead to market power abuses, which would suggest their use should be restricted if not eliminated. The Commission ultimately decided to allow unrestricted use of the utility name although Commissioner P. Gregory Conlon offered a creative alternative. In his dissenting opinion he stated that:

> "The only reason I can see for the affiliate's better success than its competitors is the ability of the affiliate to piggy-back on the brand name, logo, advertising and name recognition of the sister utility. Brand name identification is a barrier to entry and if significant could lead to market abuse."

Because of these potential abuses, Conlon proposed an alternative, recognizing the advantages that a utility affiliate may have, and sought to prevent the affiliate from exploiting those advantages to obtain an undue market share. His proposal would have limited a utility from processing the direct access requests of its affiliate if the affiliates' market share exceed 20% of the direct access market (by volume of kilowatt hours sold) within the utility's service territory. This 20% "competitive cap" would be applied separately for each class of customer, residential, commercial, agricultural, and industrial. This competitive cap would not have prohibited the affiliates from competing, but at the same time would have permitted entry of enough additional marketers to ensure a competitive market. The application of the competitive cap by market segment would have prevented the utility's affiliate from "cream skimming" the more lucrative markets and ensured that customers in all markets enjoyed the benefits of competition.

Staff believes that the competitive cap proposal has one major weakness in that, it restricts customer choice after the 20% threshold is met. For example, a customer may want to switch to the affiliate marketer but is prohibited because the arbitrary 20% cap is reached.

Staff would like to introduce for discussion purposes, an additional alternative whereby the marketing affiliate must pay a royalty for use of the brand name, etc. (this is permissible under New York statutes but not widely enforced) to reduce the rate base until the market is deemed competitive by the HHI index. Potentially, the royalty payment could operate on a sliding scale with the payment decreasing as the market becomes more competitive. The Staff would like to emphasize that the royalty payment is not intended to be punitive. It is simply, designed to reimburse the ratepayers for their contribution to the value of the name and logo. A drawback to this approach is the lack of a clear mechanism to ensure those payments would be flowed through to ratepayers through lower rates.

Recommendations

A look at the market shares of the affiliates of Columbia Gas, East Ohio Gas, and CG&E show that use of the utility name may not be such an insurmountable advantage. East Ohio Energy dominates in the East Ohio program, but neither Columbia's nor CG&E's affiliate dominates in their markets. As noted elsewhere in this report, East Ohio Energy's dominance may have more to do with other factors than its liberal use of the utility's name and logo. The lack of market dominance by the CG&E and Columbia Gas affiliates indicate that the most severe option of prohibiting the affiliate's use of the utility name is probably unnecessary. Staff recommends the Commission modify the Affiliate Code of Conduct to include the following guidelines for affiliate advertising adapted from California's affiliate transactions rules:

> The utility name or logo will not be used in any affiliate promotional material unless it discloses in plain legible or audible language, on the first page or at the first point where the utility name or logo appears, that the affiliate is not the same company as the utility. The utility should also be prohibited from participating in joint activities with the affiliate including advertising, marketing, sales calls or joint proposals to any existing or potential customers.

PIPP CUSTOMER OUT-SOURCING

- All three Company customer choice programs have provisions for including PIPP customers. This is accomplished by issuing Requests for Proposals (RFPs) from marketers to provide gas commodity to PIPP customers on an aggregated basis. Staff has previously advised the LDCs to provide timely information on their bidding processes and has requested that the evaluation processes will be accessible to Staff for observation. Although the Companies were generally cooperative in responding to Staff's request, there were occasions when information was not provided in a timely fashion. Staff receives and reviews copies of the RFPs prior to their issuance and provides any necessary feedback to the LDC. Staff is also advised in advance of the final selection made by the LDC. Upon selection of the successful bidder, the LDCs file a GCR-UNC case that identifies the selected supplier and requests appropriate GCR treatment for the PIPP gas. Staff keeps the Commission informed throughout the process.

Staff reviews each RFP for accurate determinations of customer group profiles for nominations and deliveries, gas supply procedures that are in compliance with the companies' tariff, and reasonable safeguards for supplier performance. Volumetric and load profile information is reviewed to determine if it provides reasonable capability to make nominations that will meet daily PIPP gas demand without incurring additional storage costs and not "complicate" daily operations with shortages or overages. Gas Supply Procedures described in the RFP are reviewed to determine compatibility with tariff language approved by the Commission for the LDC's Customer Choice Program. Staff also reviews each RFP's draft aggregation agreement to assure it contains reasonable safeguards for performance and does not appear to place unusual or undue requirements on the supplier.

In the East Ohio Gas program, NESI Integrated Energy Resources, Inc., was the successful bidder. NESI's bid was for a 3% discount from the East Ohio EGC rates that would be in effect while NESI served East Ohio's PIPP customer class. NESI was the sole bidder in the East Ohio Gas program. In Columbia of Ohio's Program the successful bidder was CoEnergy Trading Company. CoEnergy's bid was for a 12% discount from the Columbia EGC rates that would be in effect while CoEnergy served Columbia's PIPP customer class. CoEnergy was one of three bidders in the Columbia program. In the Cincinnati Gas & Electric Program no bids were submitted.

MARKETER COMMENTS

In all, sixteen marketers were interviewed in order to obtain their opinions on the Customer Choice program. Of these sixteen, eleven marketers were asked about their participation in bidding for PIPP customers. The specific question asked was "Why or why not did you participate in the process for bidding PIPP customers?"

Only two of the marketers interviewed actually provided bids to serve PIPP customers. One of these stated that a positive aspect of the PIPP programs is that the LDC guarantees payment, which in turn lowers the risk being assumed by the marketer.

The marketers provided a number of comments about problems that they perceived in the PIPP biding programs. A major area of concern was about characteristics of the group of customers as constructed by the LDC. They stated that the usage patterns of this group would make it very difficult to manage and balance their load. A small marketer was not able to bid because the large size of the customer group was more than they could handle. Other marketers wanted to develop customer relationships, which would not be possible with the customer group as established in the PIPP program.

The marketers also expressed concerns about the bidding process. Several marketers felt that the timing of the bidding was bad, both because of their own internal business concerns (i.e., they were not prepared to provide a bid or to take on the business) and because of the timing in relation to the gas market. One marketer felt that the bidding process was administratively burdensome. Concerns were also expressed about the requirement of bidding as a discount to the EGC/GCR rate. Marketers felt that the EGC/GCR was unpredictable and not tied to the market, making it impossible to hedge effectively. They expressed a desire for increased flexibility in constructing pricing mechanisms.

Recommendation

Staff recommends that the companies provide to Staff, in a timely fashion, all information that is required by Staff to observe, evaluate and provide feedback on the companies' PIPP supplier bidding process while they are underway. Based on the marketer comments, Staff also recommends that each LDC evaluate ways in which their Request for Proposal should be revised so as to not require bidding based on a straight percentage discount from the EGC/GCR, and rather, provide increased opportunity for alternative forms of competitive results. Staff further recommends that the existing process of Staff review of the RFP process be continued.

In addition, the LDC should not enter into a contract with the successful bidder pending Commission approval except and unless the contract contains a regulatory out clause.

SECTION 4
MARKETER PARTICIPATION ISSUES

PARTICIPATION REQUIREMENTS/FINANCIAL GUARANTIES

Each of the three LDC's tariffs includes provisions for determining whether a marketer should be approved to participate in the customer choice program. Marketers are required to demonstrate to the LDC that they have sufficient experience and financial resources to fulfill their responsibilities under the tariffs. The purpose is to minimize any potential financial liability for the LDC in the event of non-performance by the marketer as well as to protect consumers from unreliable marketers. The financial evaluation is based on standard credit factors such as previous customer history, Dun & Bradstreet financial and credit ratings, trade references, bank information, unused line of credit, and related financial information. Marketers not meeting the minimum financial criteria can be required to provide additional security in the form of a letter of credit, surety bond, a cash deposit, or other appropriate guaranty in order to participate. The LDC may also limit a marketer's participation to a specified level if questions about financial viability are not adequately resolved. All three LDCs allowed marketers that had previously been participating in the large commercial and industrial transportation programs to be "grandfathered" into the Customer Choice program without any additional financial guaranty.

Discussion

Staff heard only a small number of complaints from marketers about difficulty in receiving approval to participate in the programs. Two marketers, both of which were affiliates of larger companies involved in the natural gas industry, complained about being required to put up a parental guarantee amount that they believed was excessive in terms of the LDC's actual potential liability. After reviewing the complaints and the requirements of all three LDCs, Staff requested that one of the LDCs reduce the amount of the required parental guaranty to more closely reflect the marketers' limited initial participation in the program. This reduction was consistent with both the other two LDCs' requirements as well as with the tariff. The tariff allows the LDC to limit a marketers level of participation to a level consistent with its financial viability.

Recommendation

Since financial viability can be a subjective determination, Staff believes there is value to having an independent third party perform the financial evaluation of marketers prior to their approval to participate in the choice program. Staff recommends the Commission consider making the financial viability of new marketers a Staff responsibility. This would be done in conjunction with consultations with the LDCs and marketers. Financial viability determination is well within the Staff's expertise and may alleviate any potential concerns about disparate treatment among marketers. Having the Staff perform this function will eliminate the need for marketers to undergo separate evaluations for each additional program they apply to enter as the Staff determination would apply to all programs statewide.

CUSTOMER SIGN-UP AND TRANSFER PROCEDURES

Cincinnati Gas & Electric (CG&E) and Columbia Gas of Ohio (COH) adhere to similar procedures regarding customers participating (i.e., signing-up) in their natural gas choice programs and for customers transferring from one marketer to another or back to the local distribution company (LDC). East Ohio Gas (EOG) uses a significantly different approach regarding customers signing-up for their program and for customers transferring from one to another supplier.

CG&E and COH Customer Sign-up and Transfer Procedures are similar in that they each require or have provisions for the following:

- Supplier must obtain a written customer consent form for entry into their programs with a copy provided to the LDC. This measure is utilized both as an attempt to prevent slamming (i.e., unauthorized account switching) and as a filed written document to help resolve disputes on the validity of an account;

- Supplier's electronic customer records must be compatible with the LDC records (i.e., an "add and delete" customer list comprised of the customer's name, address, and account number) with incompatible records being rejected from program participation or transferring pending supplier clarification on account information;

- Provision that if a customer signs-up with more than one supplier, the earlier dated supplier has the customer for that month. Transferring from one supplier to another can only occur after at least one billing cycle has elapsed;

- Customer reversion to LDC from supplier without regard to any potential contractual agreement between supplier and customer.

EOG's Customer Sign-up Procedures are similar to the above except for an important difference. EOG does not require the customer or supplier to submit a written consent form to the Company for verification. Rather, EOG mails a notice of change in account to the customer who only need respond if the notice of change is incorrect. Non-response is interpreted as agreement with the change.

CG&E, COH, and EOG all allow for the transferring of service from one supplier to another by the customer for a nominal switching fee. However the LDC's transfer of service procedures differ in that with CG&E and COH, customers may transfer from one marketer's pool to another marketer's pool only if their prior supplier notifies the LDC that the customer is released or deleted from their customer base. These LDCs view this procedure as a measure to protect both the customer and the integrity of their choice programs.

EOG does not attempt to police this type of customer switching and accepts the new supplier's supply list as reason enough to switch the customer from their old to their new supplier unless the customer responds that they did not want to switch. EOG's procedure for mailing a notice of change in account to the customer, who only need respond if the notice is incorrect, protects the customer and the integrity of the choice program while minimizing the EOG's role in enforcing third party contract agreements.

Marketer Comments on Customer Sign-up and Transfer Procedures

Marketers' or Suppliers' comments relating to customer sign-up procedures can be summarized by a few recurring themes. These themes included the issues of early program kinks and evolution, written consent forms, electronic standards and consistency among programs, and transferring of customers from one supplier to another.

Roughly half of the marketers interviewed for this report commented on early rough spots in the various choice programs with regard to the issue of customer sign-up procedures. Reasons cited for the rough spots included a shortage of staffing levels at the LDC, customer billing system problems, length of customer education efforts, and general customer inertia or market conservatism. Most marketers also reported that for the most part, the choice programs have evolved positively with many of the bugs being worked out of the systems.

One issue that has not been satisfactorily worked out is the mandated usage of written customer consent forms for signing customers up for the program. A number of marketers complained that this procedure was burdensome for both themselves and the LDC. Written consent forms were also perceived as a potential barrier for customer participation. Some marketers suggested optional procedures including the use of a voice verification system and/or an Internet based system for signing-up customers. In general, however, marketers disliked the idea of a paper-based sign-up process.

A second issue receiving many marketer comments is a combination of electronic standards and the desire for consistency among programs statewide. Clearly, consistency among programs statewide would involve many more sub-issues than electronic standardization, including billing procedures, dissemination of customer information, software standardization, and so forth. Nevertheless, it is readily apparent that for a marketer, having to maintain separate and differing processes for each LDC for signing-up and/or transferring customers is a cumbersome hurdle and inefficient way to do business. Somewhat related to the written consent issue at CG&E and COH, a statewide standard for electronically managing customer accounts (i.e., a paperless procedure for processing customer sign-ups and transfers of accounts) incorporating voice recognition and/or Internet technologies was a recurring suggestion forwarded by the marketers.

A third issue discussed by the marketers was the barrier to switching customers from one supplier to another. Written consent forms and the lack of electronic standardization were mentioned as barriers. The LDC requirement that the former supplier submit a release of the customer before another supplier can serve the new account is clearly another barrier to transferring customer accounts.

Discussion and Recommendations

Standardization: The marketers almost universally recommend that the three programs be standardized where possible. They particularly encourage standardized enrollment procedures and processes across the three programs that include internet/electronic bulletin board systems using uniform terminology and standards such as the Gas Industry Standards Board (GISB) standards. Marketers claim that such standardization would simplify their interaction with customers, make the process of adding and removing customers from service lists easier, improve information flow with the utilities, speed up the confirmation process, and generally reduce their transaction costs.

Staff believes that any suggestions that may tend to reduce marketer transaction costs and encourage marketer participation deserve careful consideration. At present, there are only two marketers that are actively serving or seeking customers in all three of the pilot programs. Standardized enrollment procedures may encourage marketers who are currently serving customers in only one or two of the programs to begin to serve customers in other service areas and may encourage new marketers to join the programs. Staff is not suggesting that if the enrollment procedures were standardized across the three programs that marketers would automatically flock to programs in which they are not currently participating. The marketers cite a host of differing reasons, such as capacity assignment issues and lack of experience, for not serving customers in a given service area. Staff is simply suggesting that steps that tend to reduce marketer transaction costs may help to increase the number of marketers serving customers, thus resulting in more choice for customers.

Despite the potential benefits of a standardized enrollment process, Staff is hesitant to recommend that the Commission order the companies to develop such a process. Staff has no feel for the time and expense involved for each company to modify its enrollment processes in order to meet a standardized format. Presumably, the companies developed their current enrollment processes in such a way as to efficiently utilize their current staff and technology. Directing the companies to institute standardized enrollment procedures could involve considerable unforeseen expenses. Moreover, the benefit of going to a standardized enrollment process may not be worth the expense. In interviews with Staff, the marketers themselves note that early problems with customer enrollment in each of the programs have been overcome and that the companies have been cooperative in solving problems and accommodating unique situations. Given this information, going to a standardized enrollment process may be an instance of going from what works to an ideal.

Recommendation: The Staff recommends that the Commission encourage the companies to work with the various stakeholders to suggest cost efficient ways of standardizing the customer enrollment process across the three service areas. The Companies should report to the Commission on their progress within 90 days from the adoption of the Order in this proceeding.

Telephonic Customer Enrollment: In its report to the Commission, COH recommends that it be permitted to eliminate the current requirement that a marketer must send a signed customer consent form to COH within 30 days of notifying COH of the customer's desire to enroll with that marketer. Instead, COH proposes that marketers obtain either written or telephonic consent from a customer and that the marketer must be able to produce either a signed consent form or tape recording that verifies the customer's intent to be served by that marketer within three business days of a COH request. COH asserts that this process would reduce both the marketers' and its own administrative costs associated with processing paper customer enrollment forms. If a marketer fails to produce the written or taped confirmation COH would not enroll the customer or switch the customer back to his/her original supplier and the marketer would be in violation of the Marketer Code of Conduct contained in COH's tariffs. Code of Conduct violations could result in a marketer's participation in the program being suspended or terminated.

The Columbia Collaborative has recommended tariffs (currently before the Commission) to govern statewide expansion of its Choice program. These proposed tariffs proscribe the specific requirements that marketers must follow in order to telephonically enroll customers. These requirements provide that:

- Marketers must send customers written terms and conditions prior to initiating telephone contact to enroll customer customers. The written terms and conditions must clearly state the pricing and payment terms and otherwise comport with the marketer code of conduct.

- Marketers must maintain a date and time stamped recording of customer enrollments that include the following:

    - Customer's statement of his/her name and COH account number;

    - Customer's acknowledgment that he/she has received and reviewed the marketer's written terms and conditions.

    - Customer's affirmative acceptance of the price that the marketer will charge for gas supply;

    - Disclosure of all inducements made to the customer;

    - Customer's affirmative acceptance of the initial term of the gas supply agreement with the marketer;

    - Customer's affirmative acceptance of the marketer's billing and payment terms;

    - Customer's affirmative acceptance of any re-enrollment terms; and

    - Customer's affirmative acceptance of any remaining terms and conditions stated in the document containing the written terms and conditions.

Staff notes that there is one important item missing from this "script." The script does not require a marketer to disclose to customers whether or not state sales taxes are included in the price that the marketer will charge. Most of the calls Staff has received from customers regarding marketer sales offers and pricing involve confusion and questions regarding state sales tax. In its review of marketer promotional material and customer contracts, Staff works with marketers to ensure that offers to customers clearly state whether or not the price includes sales taxes. Staff believes that the telephonic enrollment script should have a similar disclosure.

The script to telephonically enroll customers represents a compromise position between the Staff and OCC and the other parties in the Columbia Collaborative. Initially, Staff resisted the idea of telephonic customer enrollment. Staff simply has too much negative experience with the unscrupulous use of telephone enrollment schemes to switch customers' long distance carriers without their permission (slamming). However, COH and the marketers participating in the Collaborative make a reasonable argument that paper enrollment of customers (i.e. the use of signed consent forms) is slow and burdensome. They suggest that telephonic enrollment would speed customer sign-ups, reduce the administrative burden of processing and storing paper copies of forms, and provide convenience to customers. They argue that these benefits will lower the transaction costs of marketers signing-up residential customers, thus making them more attractive to serve. In the gas choice markets, Staff and company (and presumably marketer) research shows that residential customers want at least ten percent savings off of their utility's gas costs to even consider switching to a marketer. Marketers suggest that offering customers a ten percent discount and still making a reasonable profit can be a challenge and that one way to overcome that challenge is to lower transaction costs.

Staff generally favors ideas that may reduce marketer transaction costs under the theory that more marketers will seek to serve residential customers thereby offering more choice to customers. However, Staff does not believe that customer security should be sacrificed in the process. As a result, Staff suggests that the marketers should be required to rigidly adhere to the enrollment script. If telephonic enrollment is approved, Staff intends to thoroughly investigate complaints regarding telephone enrollment and will expect COH to do the same. Furthermore, Staff believes that a "go slow" approach on telephonic customer enrollment is warranted. Staff suggests that telephonic enrollment should be tried on an experimental basis only. A one year trial period will likely reveal if the availability of telephonic enrollment encourages more marketers to pursue residential customers and if the safeguards designed to prevent abuse are effective. At the end of the trial period, Staff should perform a comprehensive review to determine if the use of telephone enrollment should be expanded, modified, or eliminated.

<u>Recommendation</u>: The Staff recommends that the Commission approve the telephone customer enrollment process recommended by the Columbia Collaborative on a trial basis. The Staff recommends that the Commission limit the use of telephonic enrollment to the COH service area for a one year period that should begin at the end of the Staff recommended enrollment moratorium. (See Customer Outreach Section.) During this period, marketers could telephonically enroll customers by using the script outlined in the proposed COH tariffs. Staff will seek to ensure that marketers rigidly follow the process provided in the tariffs and closely monitor and investigate any customer complaints of abuse. One month prior to the end of the trial period, the Collaborative should provide the Commission a report evaluating telephonic enrollment. The report should include, at a minimum: the total number of marketers participating in the program; the number of marketers serving residential customers; the number of marketers using telephonic enrollment; number and percentage of customers enrolled using telephonic

enrollment; number and types of customer complaints; customer opinion survey results; and recommendations for modifying, expanding, or eliminating the program. Based upon the evaluation report, the Commission would then decide whether to expand the use of telephonic enrollment in the other utility service areas.

Recommendation: Staff recommends that the Commission direct COH to modify the script for telephonic enrollment provided in its proposed tariffs to require that marketers disclose to customers whether the price that the marketer will charge includes sales tax. At present, the proposed tariffs require that marketers who use telephonic enrollment must record customer responses to a scripted set of questions, one of which asks for the customer's acceptance of the price that the marketer will charge. However, the script does not require the marketer to disclose whether the price offered to the customer includes sales tax. The tariff's Marketer Code of Conduct requires marketers to offer clear pricing and payment terms, which Staff has interpreted to mean that marketers must disclose in their written offers to customers whether the price offered to customers includes sales tax. Staff believes that this requirement should be made explicit in the proposed telephonic enrollment script. The marketer should be required to record its offer to customer including a statement indicating whether the price to be charged includes sales tax.

Customer Enrollment Forms: Like COH, CG&E proposes that as a way to reduce its administrative burden it should no longer be required to obtain and store customer consent forms. CG&E states that it has had only few instances where it needed to retrieve a form in order to verify that a customer had indeed consented to be served by a particular marketer. Staff believes that CG&E's request can be accommodated. The requirement that companies maintain customer consent forms was instituted as an anti-slamming measure. Staff believes that the method for confirming that a customer has agreed to enroll with or switch to a marketer recommended in the Columbia Collaborative's proposed tariffs provides comparable anti-slamming protection. In the Collaborative's proposed tariffs, a marketer is required to produce a signed customer consent form within three business days of a request by COH. If the marketer fails to do so, then the customer would not be enrolled/switched or switched back to his/her previous supplier and the marketer would be deemed in violation of the code of conduct. Staff does not see a material difference between a company searching its files to find a customer's signed consent form versus requiring the marketer to provide it within three business days.

Recommendation: Staff recommends that for statewide roll out of the programs, the companies be permitted to modify their tariffs such that they are no longer required to obtain and store customer consent forms. This requirement should be replaced by tariff provisions that require the marketer to produce a signed copy of a consent form (when consent forms are used to enroll customers instead of telephonic enrollment) within three business days of a request by an LDC.

Switching Marketers: In interviews, Staff queried participating marketers about customers switching back and forth between marketers. A majority of the marketers suggest that the companies should not switch a customer from one marketer to a second marketer without first obtaining a release from the initial marketer. On the other side, one marketer vocally advocates that a customer's choice should rule. It suggests that if an LDC receives notice that a customer desires to switch marketers it should make the switch. This marketer notes that the names of these programs all employ the word "choice," therefore customer wishes should drive whether a customer is switched. The other marketers counter that in almost all instances they have term contracts with customers and that the LDCs should not interfere with their contractual relationships with customers by switching the customers to another marketer in the middle of the contract term.

Currently, in the COH and CG&E pilots, marketers electronically send the companies batch files of the customer accounts to be switched. The companies then make the switch unless a customer's name appears as an "exception," meaning that the customer is already enrolled with another marketer or is ineligible for some other reason (such as an improper account number or the customer is a PIPP customer already being served under that company's bidding process). The companies then inform the marketer, in an "exception report," why the customer cannot be switched. If the reason is that the customer is already being served by another marketer, then either the marketer attempting to enroll the customer, the customer, or the LDC must contact the customer's current marketer to obtain a release. Marketers may grant a release for reasons such as their contract with the customer has expired, they no longer wish to serve the customer, or they simply don't want to incur the expense of trying to enforce their contract with the customer.

As noted earlier, EOG takes a different approach. When it receives a marketer's notice to switch a customer, it sends a letter to the customer indicating that the customer's name appears on a new marketer's enrollment list and asks that the customer contact EOG within five days if he/she does not wish to be switched to the new marketer. If the customer does not contact EOG, then EOG makes the switch.

Staff can see merit to both sides of this issue. On one hand, the gas pilot programs are designed to provide residential and small commercial customers the same right to choose a natural gas supplier that larger customers have enjoyed for years. Given this emphasis on choice, the argument that an LDC should switch a customer to a new marketer upon receiving notice, subject to confirmation by the customer, seems logical. This approach maximizes customer choice and is most reflective of a true market (i.e., where buyers can freely move among sellers).

On the other hand, allowing customers to switch marketers at will could be problematic. One problem is the way natural gas is bought and sold. Marketers can incur up-front risks and potential costs in serving customers. They contract to purchase gas and pay to reserve pipeline capacity in order to serve their customers on an LDC's system. If customers simply abandon a marketer, it may not be able to sell its purchase and reservation contracts at an amount sufficient to cover its up front commitments, thus it could lose money. Marketers seek to insure themselves against this possibility by signing customers to long term (one year or more) contracts. If customers ignore the contract and switch to another marketer, the original marketer is left to weigh the cost of suing customers for breaching their contracts against its ability to sell its contract commitments, potentially at a loss. If marketers have no reasonable assurance that customers will honor their contracts, they may simply choose not to serve smaller customers, or they will build substantial early termination penalties into their customer contracts, which may serve to discourage small commercial and especially residential customers from participating in the choice programs.

Recommendations: Staff does not have a recommendation regarding which methodology is best. Staff recommends that each utility continue its current practice for switching customers for the next year. Before the one year period expires, Staff recommends that stakeholder groups in each utility service area develop a recommendation to the Commission on how customer switching should be handled on a going prospective basis. If consensus among the stakeholders cannot be reached, alternative recommendations should be presented.

Consent Form vs. Confirmation Letter: Both COH and CG&E presently require marketers to send a signed customer consent form within 30 days of electronically enrolling customers as confirmation of the customer's desire to enroll or switch to that marketer. EOG sends a letter to customers informing them that a marketer has enrolled them and asks the customer to notify EOG within five days if the proposed enrollment/switch is contrary to the customer's wishes. CG&E has informed Staff that, as a courtesy, it also sends a letter to customers whose names appear in a marketer's electronic enrollment files.

Staff likes the idea of the LDC sending a letter to customers indicating that they will be enrolled or switched to a marketer. The letter, if sent promptly after the LDC receives electronic notice of a customer enrollment/switch, can provide a degree of protection against slamming and avoid a host of billing problems. Presently, customers in the COH pilot only find out that they have been enrolled or switched to a marketer after receiving their bill (COH indicates who the customer's supplier is on the bill it sends customers). A letter to customers informing them that they have been or will be enrolled/switched to a marketer would allow customers to inform the utility if they have been enrolled/switched without their consent, prior to the customer receiving a bill from the LDC that includes the marketer's gas supply charges. The utility would then contact the marketer to request a copy of the customer's signed consent form. If the marketer is unable to produce the form, the LDC would not enroll/switch or switch the customer back to his/her previous supplier and could sanction the marketer for violating the code of conduct. If the customer is able to inform the LDC that he/she has been improperly enrolled/switched prior to the marketer flowing gas and/or the customer receiving a bill, a number of billing problems and complaints could be avoided.

CG&E reports that its practice of sending an enrollment/switch letter to customers has allowed customers to contact the Company to indicate that they do not want to be enrolled/switched. CG&E is then able to avoid enrolling/switching the customer or switch the customer back prior to the customer receiving a bill, thus avoiding customer complaints.

Recommendation: Staff recommends that EOG and CG&E continue their current practice of sending a letter to customers notifying them that they will be enrolled/switched to a marketer. Staff also recommends that the Commission direct COH to send such a letter to customers as its Choice Program is expanded.

Slamming: The preceding discussions of customer consent forms, telephonic enrollment, and customer switching all involve attempts to strike a proper balance between encouraging marketers to actively seek to serve residential customers through steps designed to reduce the transaction costs associated with enrolling these, what marketers describe as, "small margin" customers, and avoiding problems that have occurred in other industries with unauthorized switching of accounts. It is this concern over slamming that led Staff to steadfastly insist upon the use of customer consent forms or utility notices to customers of an impending switch as the choice pilots were being developed.

After more than one year of experience with the COH pilot and approximately six months worth of experience with the CG&E and EOG programs, Staff is willing to explore ideas to reduce the transaction costs associated with enrolling residential customers. Staff has recommended that the Commission approve suggestions that COH and CG&E no longer be required to store customer consent forms and, on a one year trial basis, adopt the telephonic customer enrollment procedure proposed by the Columbia Collaborative. Staff does not believe that Commission approval of these recommendations will significantly erode the anti-slamming protections that were in place in the pilot programs. The alternative protections that have been recommended provide comparable protections. In the event of a complaint alleging that a marketer has slammed a customer, a requirement that a marketer must produce a signed customer consent form within three business days is materially no different than the utility searching its files to find a consent form. If the marketer is unable to produce a signed consent form within the three days, the utility will either not switch the customer or switch the customer back to his/her original supplier and the marketer will be in violation of the code of conduct.

When using the telephonic enrollment process in the Columbia Collaborative proposal, a marketer would have to provide a taped recording of the customer's response to a scripted set of questions to respond to a slamming complaint. The material difference here is that a tape recording substitutes for a signed document. Staff believes that, as long as the tape recording minimally includes the information in the script, customers are protected. The script requires the marketer to record a customer's statement of his/her name and account number, the marketer's pricing, payment, enrollment, and re-enrollment terms, any inducements the marketer is employing to enroll customers, and the customer's affirmative acceptance of all of the marketer's terms and conditions. If marketer recordings do not include the information in the script, then a complaining customer will be deemed to have been improperly switched and the customer would be switched back to his/her previous supplier and the marketer would be in violation of the code of conduct.

Due to our experience with telephone scams to slam customers' long distance service, Staff is acutely aware of the sensitivity to allowing telephonic enrollment in the gas choice programs. (Hence, our recommendation for its use on a one year trial basis in the COH service area only.) Therefore, Staff looked to the Commission's Local Service Guidelines (Case No. 95-845-TP-COI, Entry on Rehearing) to see how the switching and anti-slamming protections for local telephone carrier switching compares with what has been proposed for gas choice. The Local Service Guidelines provide that:

- A customer's local phone service can only be switched by a local exchange carrier (LEC) upon receipt of a customer's letter of authorization, an electronic recording of the customer's acceptance, or customer confirmation to an independent third party. All of these methods require a customer's clear and unambiguous acceptance of the LEC's terms and conditions;

- A LEC may change a customer's service upon request, but within three business days it must send the customer an information package that confirms the service terms, including a letter of acceptance to be returned to the LEC; and

- That any form of electronic or third party verification cannot substitute for a letter of authorization in the event of a dispute.

Staff believes that the telephonic enrollment process proposed by the Columbia Collaborative compares favorably, save one notable exception. Like the Local Service Guidelines, the Collaborative proposal would require written information to be sent to customers and telephonic enrollments are required to follow a script and be recorded. The one significant difference is that the Collaborative proposed process does not require that the marketer to produce a signed confirmation (letter of acceptance) in the event of a dispute. Staff believes that the electronic recording should suffice. If problems arise with allegations of altered recordings, then this issue could be revisited.

One important anti-slamming protection that is incumbent in the Collaborative proposal that is not in the Local Service Guidelines is the protection afforded by the customer's COH account number. Unlike telephone numbers, customer gas account numbers are not published. In order for a marketer to switch a customer's gas service, it needs to provide the LDC the customer's account number, which it would have to obtain from the customer. Staff realizes that this protection is not foolproof. Unscrupulous marketers could no doubt devise any number of creative ways of obtaining a customer's account number, but the privacy of the account number still provides a good first line defense. The anti-slamming defense afforded by privacy of the customer's account number is eliminated if the LDC provides customer account numbers to marketers. Currently, COH and CG&E do not provide customer account numbers to marketers. However, EOG sells customer information, including account numbers, to marketers . Despite the fact that Staff is only recommending that the Commission approve telephonic enrollment in the COH service area for a trial period, Staff believes that the LDCs should be prohibited from providing marketers a customer's account numbers without the customer's permission.

Staff also recognizes that privacy of customer account numbers could have the effect of making telephonic enrollment more cumbersome. For example, a marketer could contact a receptive customer in a telephone call, but the customer is unable to find a past bill or some other document that shows his/her gas account number. Both the customer and marketer may be frustrated if the customer is willing but unable to enroll with the marketer. Staff believes that any customer frustration from such a circumstance is more than offset by the anti-slamming protection provided by requiring the marketer to obtain the customer's account number directly from the customer. Moreover, potential customer frustration could be ameliorated by LDC educational efforts. For example, prior to its Choice Program being rolled out in Toledo, COH sent information to customers, including a peel-off sticker that had customers' account numbers to facilitate customer enrollment using paper consent forms. COH could do something similar to facilitate phone enrollment.

<u>Recommendation</u>: Staff recommends that the Commission direct EOG to stop providing marketers with customer account numbers, without customer consent, in anticipation that

telephonic enrollment could be approved in the EOG service area in the future. Staff further recommends that the Commission prohibit all LDCs from providing customer account numbers to marketers without a customer consent.

Recommendation: Staff recommends that the Commission, if it approves telephonic enrollment, direct COH to undertake customer education efforts specifically designed to facilitate customer use of telephonic enrollment. Such educational efforts should be coordinated with the PUCO Staff and the Ohio Consumers' Counsel.

CUSTOMER BILLING

Marketers participating in Ohio's natural gas choice programs are given two billing options for residential customers. One option is to allow the utility to bill customers for all gas costs (both the commodity and distribution service). A second option is to allow the marketer to bill the customer the commodity cost, while the utility bills the customer the distribution charges. For small commercial customers in the Columbia and East Ohio programs, a third option exists that allows marketers to provide small commercial customers one bill that includes both the commodity costs and the distribution charges.

On March 31, 1998, Columbia filed its Application for PUCO Approval for Statewide Expansion of the Columbia Customer Choice Program and proposed tariff changes. One of the proposed tariff changes is to introduce a marketer billing option that would allow marketers to issue a single bill to residential customers. This bill would include both the Columbia distribution costs and the marketer's gas supply costs. Under the proposal, marketers which choose to single bill residential customers must pay Columbia for the distribution costs on a monthly basis by electronic transfer of funds. The marketer accepts all responsibility to collect from the customer. The customer is also protected from termination of gas supply to the customer for nonpayment of the LDC's distribution charges. Columbia would also issue a "memo bill" to the customers that reflects distribution costs being charged to the customer.

Marketer Comments and Issues with Respect to Billing

The issues related to billing under the Choice programs fall primarily into two categories. Most marketer's comments related to the problems associated with the general transfer of information between the LDCs and marketers including billing information. The second issue dealt with the desire by some marketers to provide their customers a single bill for both commodity and distribution service.

On the first issue, one marketer stated that information received from Columbia was rather cumbersome to reconcile with their own billing accounts since Columbia performed their billing out of one system and did their balancing from another. Columbia was not faulted for providing insufficient information, but rather that the information was not in a very usable format. Marketers generally commented that the LDCs billing systems should be able to model the terms and conditions of the Choice Programs. All information could be transferred on a standardized electronic batch basis. The Gas Industry Standards Board (GISB) standards were suggested by the marketers as an appropriate standard, since all of the interstate pipelines currently use this electronic format for nominations, scheduling, and balancing. Such information transfer would facilitate the sign-up procedure, customer usage information, and the pricing for the various operational components in purchasing gas under the Choice programs.

Another billing issue raised relates to rate errors and mis-billing initially experienced in the Columbia and CG&E pilots. While some problems remain, these errors have been largely corrected, according to marketers. Also, those marketers involved in serving the East Ohio residential "budget billed" customers in particular ran into delays in customers receiving their bills. The marketer primarily involved in serving these customers, said that the issue was getting resolved, but that it was not good for customers to receive bills reflecting two billing cycles rather than the usual one month cycle. A few of the marketers also complained that CG&E and East Ohio did not put the GCR component on the customers' bill for a "benchmark" comparison to show the savings to the customers.

With respect to the second issue, most marketers stated that customers would prefer to receive a single bill. Marketers expressed a preference for providing the billing for both the commodity and distribution services for Choice customers. Currently, except for those non-residential Choice customers served under the Columbia and East Ohio programs, this option is not available. In the instance where the LDC performed the billing for the marketer's commodity, it was pointed out that the marketers were required to accept the receivables risk and bad debt expense while the LDC still continued to recover these costs in their base rates.

Findings and Recommendations

With respect to those billing issues related to rate errors and mis-billing under the choice programs, most marketers believed they have been largely resolved. The errors appear, with the exception of budget billing as discussed below, to be a result of normal growing pains associated with a new way of doing business. In order to facilitate a more seamless transition to competition as the programs expand, the LDCs and marketers are encouraged to work together to find better ways to transfer information among themselves. One of the suggestions raised by several of the marketers was the adoption of GISB type standards. The Staff recommends the LDCs and marketers look into how these standards could be adapted to standardize the billing procedures as well as the nominations process across the customer choice programs. Standardization across the programs will encourage broad-based participation by marketers statewide, bringing additional benefits to consumers.

Staff recommends that single billing of end use customers by marketers for both commodity and distribution should be permitted on a trial basis for the expanded Columbia program only, provided adequate consumer safeguards are retained. As discussed in the "Marketer Code of Conduct" section of this report, the billing problems that are still being experienced argue against the Commission deciding that single billing by marketers should be allowed statewide at this time. In the "Public Interest Center Customer Contacts" part of Section 2 of this report, it was stated that a large number of customer concerns regarding the choice program pertained to billing issues. To address these concerns, Staff recommends that marketers in the Columbia program that choose to provide a single bill to residential or small commercial customers, be required to bill at regular intervals and the bill contain a clear listing of all charges due and payable. Staff recommends that small commercial and residential customer bills meet minimum bill requirements. In particular, the bill must contain:

- The name of the utility and its address and toll-free number for reporting service emergencies;

- A statement that if the customer smells gas, they must call the utility and provide the utility's toll-free number;

- An indication of a means for a residential customer to inquire about his bill, by the marketer's toll free number to be reached in the event that the customer wishes to make billing inquiries and a notice stating that inquiries should be made initially to the marketer and that unresolved inquiries should be made to the PUCO Consumer Services Department and the toll-free and TDD/TTY number of the PUCO;

- An indication of a means for a commercial customer to inquire about his bill, by the marketer's toll free number to be reached in the event that the customer wishes to make billing inquiries and a notice stating that inquiries should be made initially to the marketer and that unresolved inquiries should be made to the PUCO Consumer Services Department and the toll-free and TDD/TTY number of the PUCO and for residential customers, the OCC's toll-free voice/TTY number is also available;

- The customer's account number;

- The beginning and ending dates for the service period;

- The billing determinants applicable (beginning meter reading, ending meter reading, demand meter reading, multiplier, consumption, demand);

- An indication that a bill is estimated or in some way not based upon actual end-of-period meter readings for the period, if applicable, including end of period determinants which are estimated;

- The date by which the bill must be paid to keep the account current;

- The total charges for the period;

- The amount of any late payment charge or gross and net charges if applicable;

- Any previous balances, customer credits and total balance;

- If the customer is participating in a budget plan, the current balance of the account;

- Itemization of the portion of the bill that is due to the marketer for its commodity service and the amount due for the LDCs distribution service; and

- Notice informing customers that their local distribution service provided by the LDC cannot be disconnected for nonpayment of the commodity charges due the marketer.

The marketers should also be required to provide, prior to initiation of billing or printing of bills, the PUCO Staff a "sample bill" for review. Since many of the choice customer calls to the

PUCO PIC were regarding billing, the marketer's "sample bill" will aid Staff in these discussions with customers.

Until such time as reasonable alternatives can be developed, Staff also recommends that marketers who single bill customers, be required to electronically transfer funds to the LDCs on a monthly basis for the distribution costs. This monthly transfer will ensure that the customer's payments are credited to the LDC's distribution charges. Regardless of the billing situation, only the LDC can physically disconnect the customer for non-payment or partial payment of the distribution bill. As revised tariffs are developed to allow single billing by marketers, Staff will work with the parties to resolve these issues as well as to ensure adequate customer protection is maintained. Staff recommends the Commission require Staff to evaluate this and other billing requirements after the completion of the first year of implementation. Staff will continue to work with the LDCs and marketers to address customer concerns and resolve customer disputes or billing problems.

Similar to the requirements above for itemization of the LDC and marketer portions of the total amount due from customers on marketer bills, Staff recommends that when the LDC bills for both its own distribution charges and a marketers commodity, these items should likewise be itemized on customers bills. In addition, the LDC should periodically provide customers notice on the bill that the customer's local distribution service cannot be disconnected due to nonpayment of commodity charges due a marketer.

Customers of marketers that are budget billed by the LDC appear to have the most problem in bills being delayed. Budget billing is not a problem if the marketer bills the commodity portion of the bill but is a problem if the LDC provides a single bill. The problems also appears to be related to how the LDC reimburses the marketer payments made by budget billed customers. Columbia Gas has reported no problems with budget billing on behalf of marketers while East Ohio reports significant problems. The difference appears to be that Columbia remits the full amount of a customer's bill to the marketer (i.e. based on actual monthly consumption as if a non-budget billed customer) while East Ohio remits only a customer's budget amount. In Columbia's case, the LDC is essentially purchasing the marketer's receivables due in the form of the difference between the budget and the total amount actually owed. The billing system requirements are no different from that used for the LDC's own budget billed customers. In East Ohio's case, additional billing system modifications are required to track the receivables due the marketer compared to what has already been paid in the budget payment. In the case of partial bill payments it becomes even more complicated in determining how to allocate those payments between commodity and distribution charges. In the case of CG&E, the budget billing is handled the same as East Ohio but they have not reported significant problems to date, possibly due to the relatively low number of residential customers participating in the choice program.

In discussions with Staff, East Ohio cited this specific billing issue as the single biggest impediment to a system-wide expansion of the Choice program in the Fall of 1998. East Ohio has committed to Staff that they would be able to expand the program to include Cuyahoga County by Fall 1998, but that expansion may be contingent on East Ohio not being required to offer budget billing to customers of marketers when the marketer does not do it's own billing for commodity. East Ohio believes their existing billing capabilities cannot handle the additional complexities of budget billing, with multiple marketers, system wide at this time without incurring an undue risk of a substantial increase in customer complaints due to billing problems.

Staff believes it is important that the East Ohio program be expanded expeditiously. We also believe competition will be inhibited without the option of budget billing. Staff believes the approach East Ohio uses for budget billed customers (remitting only the budget amount to the marketers), may contribute to the Company citing this as an impediment to offering budget billing system wide. Although staff has endorsed this approach in the past for East Ohio, we now believe it may be inconsistent with the status quo whereby the LDC is being compensated for the risk of bad debts in it's existing rates.

There are two customer service issues that need to be resolved before the LDC should be permitted to purchase a marketer's receivables for the purpose of budget billing. The first is the requirement that a customer's service not be disconnected for non-payment of the marketer's commodity bill. If an LDC is permitted to purchase a marketers receivables, safeguards need to be established to ensure that only the LDC can physically disconnect the customer for non-payment or partial payment of the distribution bill. The second principle is that ratepayers should not be held even indirectly responsible for uncollectables attributable to the marketer's customer's nonpayment of the commodity bill. Staff believes the fact that LDCs are currently compensated for uncollectables in existing rates provides adequate compensation to the utility for nonpayments as long as those rates are in effect. Since those rates were set assuming the LDC continued provision of both commodity and distribution service to all customers, there is no additional liability associated with assumption of the marketer's uncollectables. In the event of a subsequent rate case in which that liability would be reexamined, this issue could be re-evaluated by the Commission. A determination would be made as to whether the policy of the LDC purchasing a marketer's liabilities should be re-considered in light of the potential negative impacts on the LDC's ratepayers. Staff will work with the parties to resolve these issues as to ensure adequate customer protection is maintained.

Recommendation

Staff recommends East Ohio consider adopting the same procedures as Columbia Gas for marketer budget billed customers. If East Ohio believes this change does not obviate the necessity of not offering budget billing in order to expand the program for the 1998 –1999 heating season, they should respond and explain, in this docket, by May 26 relative to this issue. The Commission can determine at that time whether to allow the East Ohio program to expand without the availability of budget billing. With that contingency, Staff recommends the Commission approve East Ohio's plans to expand the program to all of Cuyahoga County in Fall of 1998.

MARKETER CODES OF CONDUCT

The tariffs governing each of the three customer choice programs include a section covering participating marketers' promotional activities and relationships with customers. These sections have different titles and different wording in the three programs but they can be generically referred to as marketer codes of conduct. They are all designed to accomplish the same general purpose, which is to:

- Ensure that marketers provide consumers with enough basic information to enable consumers to make informed choices;
- Prohibit marketers from engaging in misleading, deceptive, or other anti-consumer activities;
- Provide consumers an accessible dispute resolution process; and
- Expressly place a duty on participating marketers to comply with the operational provisions of the tariffs.

As each of the programs was being developed, the companies, staff, OCC, and other parties agreed that effective codes of conduct would contribute to consumer confidence in the programs, thus making customers more likely to participate. Each company developed its own marketer code of conduct, which means that the codes of conduct are not uniform across the three programs. However, the codes in all of the programs are conceptually similar and share a number of key provisions. Key provisions of the marketer codes of conduct include requirements that marketers:

- Clearly communicate to customers their rights and responsibilities;
- Provide customers a customer service address and toll free phone number;
- Inform customers of their dispute resolution procedures;
- Provide customers and the LDC 30 days notice prior to discontinuing service;
- Provide customers clear pricing and payment terms in writing;
- Agree to refrain from engaging in any deceptive or misleading actions;
- Deliver gas on a firm basis in accordance with tariff requirements;
- Maintain a creditworthy financial status;
- Provide a "regulatory out" in customer contracts if the Commission terminates the program; and,

- Agree to use its best efforts to resolve disputes with customers.

Enforcement of marketer codes of conduct is similar in all three programs. Each company requires participating marketers to sign some form of a supply or aggregation agreement with the company in which the marketer must agree to adhere to the company's tariff provisions, including the marketer code of conduct. Each company's tariff provides that if a marketer violates the code of conduct the company may suspend that marketer's ability to participate in its program or terminate that marketer's participation altogether. EOG's tariffs expressly state that the Commission may order EOG to "impose sanctions" on any marketer that violates the code of conduct. COH and CG&E's tariffs do not have this explicit statement, however it is generally recognized that the Commission may, through its traditional authority, order a company to enforce its tariffs. Each company's tariff also provides that marketers must provide Staff copies of promotional material and customer contracts upon request. The Staff made such a request of all marketers participating in each of the programs and has a standing request for submission of any new or modified material. Staff reviewed this material for compliance with the codes of conduct and met with each participating marketer to elicit modifications if the material did not comply.

Summary of Company Reports

In their reports to the Commission, COH and EOG do not specifically discuss the marketer codes of conduct. However, some information about marketer compliance with the codes can be gleaned from the numbers and types of complaints reported by the companies. CG&E also reports complaint statistics and it goes on to make recommendations for improving code of conduct enforcement. A brief summary of the marketer code of conduct discussions from each company's report is provided below.

Columbia Gas of Ohio: COH reports that only 251 of 10,077 (2%) calls to its call center regarding its Choice Program have been complaints. It states that the majority are either sign-up, billing, or solicitation complaints. COH reports that the sign-up complaints generally involved the lag between when a marketer transmitted sign up information and COH actually began billing customers as Choice customers. COH reports that it has reduced the lag by changing the date that marketers can transmit sign up data to the Company and, thus, the number of complaints in this area has declined. COH states that the billing complaints occurred in the early months of its program when it did not provide information about customer gas costs on customer bills if the customer switched to marketer. Customers complained that they had no way to verify that they were realizing the savings off of COH's gas charges promised by their marketer. COH states that it has eliminated this problem by reporting on customer bills the percent off promised by customers' marketers and the gas charges the Company would have charged if the customers had remained with COH. The Company reports that complaints involving marketer solicitation primarily centered around door to door solicitation. It notes that some customers alleged that marketers misrepresented their affiliation with COH and complained about the manner in which they were asked to sign a consent form. COH states that it has met with the involved marketers and that complaints in this area have declined.

East Ohio Gas: EOG's report to the Commission does not provide the number of complaints it has received regarding its Customer Choice Program. The Company does report, however, that the majority of complaints that it has received involve billing concerns. EOG reports that a number customers who switched to a marketer had not yet received a bill from EOG (where EOG is billing commodity charges for the marketer) due to programming problems. EOG attributes these problems to Staff requirements prohibiting EOG from purchasing marketers' receivable when it bills for marketers. EOG recommends that it be allowed to purchase marketers' receivables and, presumably, be authorized to disconnect customers who do not pay the full amount (EOG's supply charges and the marketer's commodity charges) due on the bill. The Staff maintains that EOG should not disconnect a customer for nonpayment of an unregulated service. The Ohio Revised Code permits utility companies to disconnect customers for nonpayment of regulated services and establishes the procedures for doing so. Thus, EOG is protected if a customer does not pay EOG's supply charges. Staff asserts that marketers can protect against nonpayment through the use of deposits and the same collection procedures available to companies in other competitive industries.

Cincinnati Gas & Electric: In its report to the Commission, CG&E reports receiving 39 "inquiries/complaints" regarding suppliers through March 9, 1998. This number represents 4% of the 954 calls to CG&E regarding its choice program through the March 9 date. CG&E reports that many of the calls involved customers misunderstanding of the "Cust Choice Rider" that appears on customers' bills. Some customers believe that this is a new cost that diminishes the savings they can achieve by switching to a marketer. CG&E intends to address this problem by distributing informational pieces to customers and marketers explaining that the choice rider is a reconciliation for either under- or overpayments to the Company's GCR service that is paid by both sales and transportation customers and that the rider only applies for the first year that the customer is a transportation customer. CG&E also reports that customers have complained about relatively small savings compared to CG&E's gas supply charges when these savings are demonstrated on customer bills from CG&E. CG&E recommends stakeholder discussion of this problem or removing the savings message on the bill altogether.

CG&E reports that, subsequent to recording the complaint statistics summarized above, it has observed a sharp increase in the number of complaints regarding marketer solicitations. These complaints involve door to door solicitation by one marketer. CG&E has received over 100 complaints regarding this marketer. Customers have complained about high pressure sales tactics, misrepresentation that the marketer's sales agent works for CG&E, and other deceptive practices. CG&E and Staff have met with the involved marketer to discuss the customer complaints. The marketer has been cooperative in addressing the complaints and has agreed to release customers who have complained from their supply contracts upon request. Staff will continue to monitor the number of complaints as well as allegations made regarding door to door solicitation.

CG&E notes that it relies upon the Staff to review the promotional material and customer contracts used by marketers to enroll customers. However, the Company points out a lack of communication between the Staff and itself regarding when the Staff has completed its review of a marketers material. CG&E also asserts that there is "an apparent gap in the program as no one seems to be monitoring marketers practices for compliance with the Uniform Commercial Code (UCC)." The Company cites an example of UCC requirements that door to door solicitors advise customers, in writing, of their right to cancel the contract within three days are not being enforced. CG&E recommends that the UCC monitoring gap be closed and that Staff notify it upon finding marketers' promotional material and customer contracts acceptable.

Summary of Marketer Interviews

In interviews with marketers participating in the programs, Staff did not ask a question specifically related to marketer opinions regarding the codes of conduct. Nevertheless, marketer responses to other questions provides some insight into how marketers regard the codes. Many of the marketers indicated that they had received very few customer complaints. The complaints that they have received involved customer confusion about collection of state sales tax, relatively small savings, and changes in savings amount when a utility's GCR changes. The most direct references to the marketer codes of conduct and their enforcement take somewhat opposing views. One marketer stated that the COH Standards of Conduct was a "good document" and another expressed a preference for PUCO oversight and dispute resolution over having disputes resolved in court due to the time and expense involved in going to court. On the other side, one marketer stated that the PUCO should adopt as few rules as necessary and "let the market work." Another marketer asserted that PUCO review of marketer promotional material and contracts was an impediment to the program.

Summary of GCR Auditor's Reports

The GCR auditors' reports provide an extensive review of system operational issues and marketer supply performance. One element in each company's marketer code of conduct is a requirement that marketers adhere to supply/aggregation agreements with the companies and comply with operational requirements in the tariffs. This topic is covered in-depth in the GCR/Reliability Impacts parts of Section 3 of this report. The only other marketer code of conduct issue raised by the GCR auditors is found in the auditors' reports for COH and EOG. In both reports, Exeter Associates raises a concern about marketer promotional material offering guarantees of savings over the companies' GCR. In its report on COH, Exeter states "it should be noted that the promotional materials distributed by the various Customer Choice suppliers imply guaranteed savings to customers who elect to participate. Should COH's GCR rate decline to levels below that at which the customers have agreed to pay, participants may become dissatisfied."

Discussion and Recommendations

Purpose: Evidenced by the high participation rates and low number of customer complaints in the three programs, Staff believes that the marketer codes of conduct have been successful in achieving their purpose. Staff and company data indicate that cost savings are the principal motivating factor behind customer decisions to switch to a marketer. Staff also believes, however, that code of conduct requirements that certain information be clearly communicated to customers and the knowledge that someone is monitoring marketer activities give customers the confidence and security to make the switch.

Recommendation:

Staff recommends that the Commission reaffirm the need for Code of Conduct provisions in its Order.

Key Provisions: The high participation rates and low number of complaints suggest that the marketer codes of conduct contain appropriate requirements and protections. Staff believes, however, that the marketer codes of conduct should evolve as the programs mature, evolve, and perhaps expand.

Recommendation:

Staff recommends that stakeholder groups in each of the three programs review the codes of conduct and make recommendations to the Commission for possible deletions or additions as the programs expand and mature.

Enforcement: Staff believes that enforcement of the marketer codes of conduct has worked well. The companies have been responsive in investigating and addressing customer complaints. The marketers have been generally cooperative in working with Staff to modify promotional material and customer contracts that did not comply with the codes. The effectiveness of the enforcement efforts is evidenced by the high participation rates and low number of complaints. However, Staff agrees notes that CG&E may be correct in its assumption that there is room for improvement. Staff agrees with CG&E that there has been a gap in the review of marketer material for compliance with the UCC and the Home Solicitation Sales Act (ORC 1345.21 to 1345.28). Staff intends to close this gap by expanding and improving our reviews of marketer material to assure compliance with applicable laws or regulations in addition to a review for compliance with the codes of conduct. Staff also agrees with CG&E that communication between the companies and staff regarding staff review of marketer promotional material and customer contracts should be improved. Staff will work with each of the companies to formalize a procedure whereby if marketers approach a company about participation in its program, the company will inform the marketer that it must have its promotional material and contracts reviewed by Staff prior to dissemination to customers and enrolling customers. Staff will then formally notify the companies when the marketer's material complies with the codes of conduct and is acceptable.

Recommendation:

Staff recommends that the Commission direct the companies to work with the Staff to develop a formal process for Staff review of marketer promotional material and customer contracts, as discussed above.

Company Reports: Staff believes that the complaint statistics provided in the COH and CG&E reports provide useful insight into the effectiveness of the marketer codes of conduct. Staff will contact EOG to obtain a breakdown of the number and types of complaints it has received.

Both COH and CG&E report receiving complaints from customers about door to door solicitations by marketers. Staff intends to monitor door to door solicitation closely in order to quickly address any problems that arise.

Staff disagrees with EOG's suggestion that as the billing entity for marketers, it should be able to purchase marketers' accounts receivable and disconnect customers who do not pay the full amount due on their bills. Staff continues to maintain that an LDC should not disconnect a customer's service for failure to pay for a nonregulated service provided by a nonregulated company. EOG is permitted to disconnect customers who do not pay for its regulated distribution charges, and marketers can avail themselves of the same protections against nonpayment as other companies in other industries. Moreover, permitting EOG to disconnect customers for nonpayment of services provided by an unregulated marketer is contrary to Commission policy on this issue. In Case No. 95-790-TP-COI, the Commission established that telephone Local Exchange Carriers (LECs) cannot purchase the accounts receivable for toll charges from long distance carriers, then disconnect a customer's local service for nonpayment of toll charges. Staff strongly agrees with this Commission decision and believes that it is simply bad policy to allow a customer's regulated service to be leveraged to compel payment for a nonregulated service.

CG&E suggests that it may eliminate the customer savings message on bills it sends to customers to avoid complaints about relatively small savings achieved by switching to a marketer. Staff disagrees with this suggestion. Staff believes that as long as marketers promise customers some amount of savings compared to what the customer would pay the LDC (as most do) then customers should be provided the information to confirm whether the savings have actually materialized. The bill from the LDC is a good neutral source for accurate information. Staff acknowledges that a monthly savings message may cause customer confusion, particularly in a month when the marketer's charges may actually be more than the Company's GCR rates. If customers were promised savings they may complain if they do not consider that they may still save on an annual basis. To address this problem staff will consider supporting a proposal where savings messages are placed on customer bills quarterly or semi-annually.

Recommendation:

Staff recommends that the Commission accept EOG's proposal only with the requirement they be prohibited from disconnecting customers for non-payment of a marketer's commodity bill and that any uncollectables resulting from these receivables are excluded from operating income for ratemaking purposes.

Staff recommends that the Commission reject CG&E's suggestion that it stop printing savings messages on customers bills to avoid complaints about small savings. To accept this proposal would be trading one set of complaints for another. COH reports that when it did not print saving messages on customer bill customer complained that they were unable to confirm their savings. The CG&E stakeholder group should propose ways of addressing the small savings problem without creating another set of problems.

Marketer Interviews: If, as one marketer asserts, the Staff's review of marketer promotional material and customer contracts serves as an impediment to marketer participation in the programs, Staff believes it to be a necessary one. None of the initial material that marketers sent prior to meeting with Staff fully complied with the code of conduct provisions of the companies' tariffs. Some marketer's material contained most of the required information, while others contained none of the information. The fact that none of the information sent by marketers fully complied with tariff requirements prior to Staff review argues strongly that Staff review is necessary.

Staff agrees in principal with the one marketer's statement "to let the market work." Staff's agreement is contingent, however, upon there being a true properly functioning market in place. Staff and company research shows that there is a vast information imbalance between marketers and customers. In addition, customer freedom to move in and out of the market and among suppliers is limited by the nature of gas service (i.e. being an essential product), switching fees, and especially long term contracts. Staff believes that if these barriers to an optimally functioning market were removed, then perhaps codes of conduct and staff review of marketer material would be less necessary.

Recommendation:

Staff recommends that the marketer codes of conduct and staff review of marketer promotional material and customer contracts remain in place for the foreseeable future.

GCR Auditors Reports: Staff shares the Exeter Associates concern expressed in the COH and EOG reports that customers could be disappointed if promises of savings in marketers' promotional material do not materialize because GCR prices drop below what customers have agreed to pay. This impact of this possibility is lessened somewhat by the fact that majority of marketers serving residential customers offer a percentage saving off of the companies' GCR. Thus, even if the GCR dips, customers will continue to receive the same savings percentage, although the actual dollar amounts that they save will be less.

However, when marketers offer customers a fixed price or a discount off of a fixed amount (such as the previous year's GCR), the limitations of the GCR as a price "bogey" becomes apparent. The GCR includes credit or payment adjustments to the LDC's current expected gas cost (EGC). As discussed in the GCR Reform section of this report, Staff believes that the EGC provides marketers with a more market reflective price if they want to offer discounts to customers. Also, if the EGC is the price bogey, it is less likely that customers will be disappointed if they do not realize the savings off the GCR that they were promised because credits to the LDC's GCR make it look artificially low compared to market prices. To facilitate marketers offering market reflective discounts to customers, Staff believes that LDC customer bills should itemize the components of the GCR, including the EGC. This would enable customers to more accurately compare a marketer's price for gas supply with the LDC's supply price before adjustments are made.

Recommendations

The Staff recommends that certain reforms in the GCR (including but not limited to the publication of the EGC on customers bills) be undertaken contemporaneous with the rollout and expansion of the customer choice programs. Staff recommends that the Commission address this issue in its Order and encourage that proposals for GCR reform be presented promptly.

CAPACITY ASSIGNMENT

Local Distribution Companies (LDCs) procure natural gas from unregulated producers and merchant suppliers for consumption by their native customers. The LDCs must arrange for the delivery of gas from the producer's field to their individual distribution pipelines (or city gates). Interstate pipelines provide the service of carrying gas from production gathering hubs to an LDC's city gate.

To guarantee the availability of interstate pipeline space (or capacity), necessary for the delivery of their gas, LDCs reserve capacity through negotiated contracts. The LDCs reserve significant capacity to meet peak day requirements through scheduling a combination of pipeline firm transportation service, firm storage service, and storage transportation. The participating Choice LDCs have various contractual capacity agreements, some of which expire this year and others which last past 2010.

The Gas Cost Recovery (GCR) mechanism allows LDCs to recover the costs of prudently acquired natural gas supplies. Thus, the gas itself and the reserved capacity costs are included in the GCR calculation. A potential negative impact of gas supply competition is that prudently negotiated capacity contracts will be unneeded and unused (stranded) as GCR customers switch to alternative marketers; yet, capacity contract costs will remain in the GCR calculation and be spread over fewer GCR customers.

Assignment of contracted LDC capacity to participating marketers could limit the impact of stranded costs on remaining GCR customers. Interstate pipeline transportation is as necessary for the delivery of marketers' gas as it is for the LDCs. The three programs all offered marketers pro rata shares of the respective LDC's reserved capacity. The East Ohio Gas program required mandatory capacity assignment, while the other two programs offered capacity assignment as an option to participating marketers.

Columbia Gas

Marketers participating in COH's Choice program may elect assignment of firm upstream pipeline (Columbia Transmission and Columbia Gulf) capacity and storage. The capacity is offered in the same proportion as contracted for by Columbia to serve existing peak day requirements (72% storage and 28% firm transportation). Total capacity offered equals the customer group peak day demand, as determined by COH. Marketers may elect to take less than the maximum capacity offered and are not required to accept any offered capacity.

Marketers electing capacity assignment must accept the capacity for a twelve month period. The capacity is reassignable by the marketer and recallable by COH. A marketer not electing storage capacity will be subject to daily balancing service charges (see pooling/balancing section).

Cincinnati Gas & Electric

CG&E offered the marketers a choice between two capacity assignment options. First, CG&E offered the assignment of upstream pipeline capacity, including storage, on an interim basis until the Summer of 1998. A supplier would receive a pro rata share of capacity on each pipeline with whom CG&E has firm transportation and/or storage contracts. The availability of this offer expired with the start of the 1998 Summer heating season.

The remaining option allows suppliers to secure their own upstream pipeline capacity necessary to meet the peak day requirements of their customers for any given month. Suppliers selecting this option retain the right to reserve (with thirty day notification) any released capacity (at full contract demand rate) which may be offered by CG&E. As with the COH program, marketers failing to select storage capacity are required to pay balancing service fees.

East Ohio Gas

East Ohio requires participating suppliers to accept pro rata assignment of interstate pipeline transportation and storage capacity reserved or owned by East Ohio. The assignments are based on the projected design peak day requirements of the customers served by the marketer and the relative percentage of each capacity resource EOG has reserved to meet the projected requirements less the resources needed for operational balancing requirements. Under this formula, about 80% of the Company's reserved capacity is assigned a marketer on a per customer basis.

Marketer Comments

The Commission Staff independently interviewed sixteen gas marketing corporations, which are active participants in at least one of the above customer choice programs. Not surprisingly, the marketers had strong comments regarding the different approaches to managing stranded capacity in the three programs. Marketers generally did not praise the EOG method of mandatory capacity assignment. Marketers cited the issue as the:

1. "biggest single reason not to participate in the EOG program";
2. "an impediment to entry in the program";
3. "a major issue and reason for not expanding efforts to gain more customers";
4. "capacity assignment makes participation expensive";
5. capacity assignment restricts sourcing; and,
6. prefer non-mandatory capacity assignment.

On a less strident note, some marketers regarded EOG's mandatory capacity assignment as:

1. significant but not the determinate issue for participation in the program;

2. a necessary evil; and,

3. it is a problem, but without it there would be additional transition charges.

Generally, marketers preferred the CG&E and Columbia option of choice, in the assignment of upstream capacity over the East Ohio model of mandatory capacity assignment. Marketers also expressed the belief that LDCs should shed stranded capacity when presented the opportunity in their negotiations with intrastate pipelines. For all Choice programs, reducing unused pipeline capacity will lessen the recovery charges on marketers, transporters, and/or captive GCR customers.

Conclusions and Recommendations

Mandatory assignment of upstream pipeline capacity to marketers removes the possibility that these costs will become stranded in the GCR. On the other hand, such mandatory capacity assignment allows limited opportunities to try to improve on the existing supply portfolio of the LDC. Establishing a system whereby a marketer's capacity configuration mirrors the current LDC's capacity, could limit the development of a truly competitive gas supply market.

East Ohio's Choice program, with mandatory capacity assignment, is dominated by one marketer. The East Ohio Energy Company (EOE), an affiliate of CNG and a sister company of East Ohio, serves nearly 85% of the participating residential market. A competitive residential market did not develop in these initial stages of the East Ohio Choice program. (The issue of market share is more fully discussed in Section Five of this report.)

One major variable among the three LDC Choice programs was the issue of capacity assignment. Staff believes that the mandatory assignment of capacity hindered the development of competition in the EOG program. Marketers demonstrated their displeasure with the issue by either refusing to participate in the program or participate in name only. The mandatory assignment of capacity may have promoted the market dominance of EOE. On the other hand it is not clear whether marketers simply boycotted the program in order to create a self-fulfilling problem requiring Commission changes. Key EOE personnel had East Ohio work experience and were fully knowledgeable of the Company's reserved capacity commitments. This knowledge and work experience may have allowed EOE to be more comfortable than other marketers in accepting assigned capacity and more knowledgeable in how to use it profitably.

If LDCs could shed capacity as customers transferred to alternative natural gas suppliers, the issues of capacity assignment and stranded costs are greatly reduced. The existence of long term contracts limits the applicability of this solution. Nevertheless, LDCs should attempt to "decontract" stranded capacity obligations when possible.

Staff pursued a number of investigative interviews with East Ohio to examine the Company's experience with mandatory capacity assignment. East Ohio has "decontracted" unneeded upstream capacity and released capacity at maximum or near maximum rates on the secondary market. Additionally, firm transportation contracts expiring in 1999 offer opportunities to further reduce contracted capacity. Finally, the Company has refined its peak day design and pursued opportunities to balance its system requirements with current capacity entitlements. Based on these factors East Ohio believes that the Choice program can be expanded to include Cuyahoga county by the Fall of 1998, without the mandatory assignment of capacity but maintaining minimal exposure to stranded costs. Additional program expansion could be pursued as soon as the Company's billing systems is upgraded to perform the additional complexities necessary for billing under the Choice program. East Ohio expects upgraded billing systems to be available by the first or second quarter of 1999.

Staff believes East Ohio should take immediate advantage of this position and begin reducing capacity assignments to marketers concurrent with the return of capacity. The Company's goal should be the removal of assigned capacity from the East Ohio Choice program as the Company continues to "decontract" capacity. The Staff recommends the Company continue to closely monitor the balance between its peak day design requirements and opportunities to further reduce capacity holdings. East Ohio should regularly report to the Commission Staff its activities in this area. East Ohio reports that it has undertaken significant.decontracting which will obviate the need for additional capacity assignment. This will essentially render moot this controversial issue and eliminate any perceived or actual reason for marketers to avoid participation in East Ohio's program.

Staff recommends that subject to the conditions contained in this Report, the Commission approve East Ohio's plan to expand the Choice program into Cuyahoga County. Staff further recommends that the program be expanded system-wide as soon as the limitations of the Company's billing system are properly addressed.

POOLING REQUIREMENTS

Minimum Pool Size

Choice customers electing transportation service in all three Choice programs must enter into a pooling agreement with a supplier that meets the requirements of the respective LDC. For CG&E, a pool is defined as a group of customers having at least 30,000 MCF of annual throughput. COH requires a minimum of 20,000 MCF of throughput and a minimum of 200 customers to comprise a pool. EOG specifies that a customer pool have at least 200 customers, but does not have a minimum throughput requirement. Each LDC also requires participating marketers to sign an aggregation agreement which spells out the terms and conditions of their respective program.

Balancing

In lieu of taking capacity assignment as discussed elsewhere in this report, two of the three Choice Programs permit the payment of balancing charges to the LDC. The balancing charges are meant to be reflective of the costs incurred by the LDC to manage differences between the gas deliveries made by the marketer on a daily basis and the actual consumption of the customer pool. For CG&E, balancing charges are applicable for marketers not taking assignment of upstream capacity. The current balancing charge is applied to all volumes consumed by the pool during the month. CG&E's balancing charge is to be adjusted in quarterly GCR filings to reflect changes in interstate pipeline rates that underlie the tariff rate.

In the COH Choice Program, marketers that elect assignment of TCO storage will not pay a balancing charge as TCO storage will balance for the marketer receiving service. Marketers must elect the full minimum storage assignment rather than some partial amount to reduce operational complexities. Marketers who do not elect the assignment of minimum storage requirements for daily balancing purposes pay COH for daily balancing service. The current balancing charge is applied to all pool throughput and is credited against the GCR. Like CG&E, COH's balancing charge is to be adjusted in quarterly GCR filings as necessary to reflect changes in the cost of TCO Firm Storage Service.

EOG requires marketers to accept capacity assignment as discussed above, but offers optional balancing services named Seasonal Service and Enhanced Seasonal Service to suppliers for purposes of more easily meeting daily requirements. The marketer must have a load factor of 50% or more to qualify for this service and may inject gas into storage during the Summer Period and withdraw gas during the Winter Period subject to payment of a reservation and usage fee as specified in the tariffs.

Imbalance Reconciliation

Two of the three LDCs reconcile delivery imbalances on a quarterly basis for each of the marketers. Imbalances are the difference between marketer deliveries for the previous quarter and actual pool consumption. If an imbalance exists, marketers generally have several options for making a true-up.

In the case of CG&E, imbalances can be reconciled through payment by the Company for excess deliveries, or billed for under-deliveries at a rate published by Inside FERC Natural Gas Report, or, the exchange of gas with CG&E by storage inventory transfer or delivery over the succeeding thirty days. The imbalance reconciliation election must be made by the marketer at the time the Aggregation Agreement is signed with CG&E.

COH reconciles marketer gas delivery imbalances using one of two options. The marketer may be paid or billed by COH for the gas using a published index price, or the marketer may exchange gas with COH via a storage inventory transfer or delivery of gas over the next thirty days. The true-up option must be elected in advance, however, when the aggregation agreement with COH is executed.

In EOG's CMAS Program, positive and negative daily imbalances may be traded among CMAS suppliers for a fee of $100 per month per supplier, however, imbalance trading may not take place during OFOs. If a supplier does not elect to make trades to rectify imbalances, the sum of the positive (or negative) daily imbalances accumulated during the month will be purchased (or sold) by EOG based upon a published reference price plus transportation costs adjusted by a sliding scale multiplier. The CMAS Program reconciles monthly imbalances no less frequently than annually, depending upon the magnitude of the imbalances.

Operational Flow Orders

All three LDCs have tariff provisions that direct suppliers to deliver gas according to operational flow orders in order to preserve system integrity. These orders are to ensure minimum and maximum delivery during unusually warm or cold periods to prevent gas gluts or shortages. Generally, if the marketer does not comply as directed by the LDC during an OFO, penalties are assessed and continued non-compliance results in suspension or termination from the Choice program.

Electronic Bulletin Boards

The three LDCs operate electronic bulletin boards where information can be exchanged electronically between the LDCs and marketers. Typically the EBB's allow the LDC to notify the marketer on a daily basis the quantity of gas to deliver to the city gate for that marketers' pool. In addition, the marketers can nominate to the LDC gas volumes from different pipeline sources for their respective pools. In the case of EOG, customer files can be exchanged between the LDC and marketer over the EBB.

Discussion

Marketer comments regarding pooling requirements were generally made in three areas; pooling arrangements, imbalance reconciliation and electronic bulletin boards. Some of the marketers would prefer to pool their load across tariff classes, rather than be required to pool solely within a particular class on an LDC's system. Pooling across tariff classes would presumably, ease the administrative requirement of the marketer and make it easier to reach minimum customer and volume levels set by the LDC's Choice program. Presently, two of the three Choice programs permit some form of pooling across tariff classes. COH has not permitted such pooling in the pilot phase of its program, but has proposed to allow inter-class pooling within operating areas in the statewide roll-out.

A more significant issue among the marketers Staff interviewed was imbalance reconciliation. The Choice programs all have methods of reconciling marketer gas deliveries to actual customer pool gas consumption. The most mentioned imbalance reconciliation issue was timing. CG&E and COH require reconciliation on a quarterly basis. The marketers however, expressed an interest in different reconciliation periods such as monthly and annually. One marketer remarked that the quarterly true-up cash out was "huge". It appears that imbalance reconciliation, no matter what period is chosen, presents potential cash flow problems for marketers. As discussed elsewhere in this report, there are also operational concerns with imbalance reconciliation frequency. There was no consensus of opinion on the most appropriate reconciliation period among the marketers that Staff interviewed for any of the three LDC's, however.

Another concern mentioned by several marketers was that the Choice programs assess balancing penalties based upon weather variance rather than based upon actual customer pool delivery imbalance. The LDCs notify the marketers in advance how much gas to deliver to the city gate for each customer pool. This amount is based upon a weather forecast and load profile for the pool. If the weather is colder or warmer than forecast by the LDC, or if the load profile is not accurate, then gas delivery imbalances result. These imbalances typically require payment to the LDC. If the concern of these marketers is understood correctly, Staff believes that the LDC faces this same problem when nominating gas for its' GCR customers. Therefore, there is no practical way of avoiding the problem of weather variance versus forecast.

Marketers would also like to see mid-month information from the LDC on imbalances so that the marketer can make adjustments in delivery to minimize payment of penalties at the time of the quarterly true-up. The objective of the marketers here is to minimize cash flow problems that may occur at the quarterly true-up point. In order for mid-month pool consumption information to be available, sophisticated metering equipment would need to be installed for residential and small commercial customers. Such metering equipment is uneconomical at this time.

Finally, several marketers commented that they would like to be able to trade daily imbalance volumes among themselves to help minimize true-up penalties each quarter. Both the CG&E and EOG programs presently allow imbalance trading among marketers.

Regarding electronic bulletin boards, all marketers were asked how effective the EBBs have been. Of the sixteen marketers that Staff interviewed, most thought that the EBB's were working very effectively. Only two of the marketers interviewed had negative comments to make. One, a marketer in the CG&E Program stated that electronic communications were "very slow". The other marketer in the EOG Program claimed to have spent months of computer programming time to be able to utilize EOG's EBB.

Many of the marketers who felt the EBBs were working effectively also felt that standardization of EBBs among the LDC's was a good idea. Standardization of the EBB's would make it easier and less expensive for marketers to participate across a number of LDC Choice programs, rather than having to learn the intricacies of each. Of those marketers advocating a standardized approach, Gas Industry Standards Board standards or interstate pipeline type EBB formats were most mentioned.

COH and EOG are currently working to modify their EBB's and will use an Internet approach that will incorporate GISB standards. Some file types, such as customer information are too large to permit an Internet based approach and will require an electronic data interchange type format.

Conclusions and Recommendations

Pooling arrangements are evolving in all three Choice programs that will generally make it easier for marketers to successfully participate. As an example of this, as discussed above, the marketers are interested in pooling across tariff classes. Staff interviews of the LDC's found that the LDC's allow, or will soon allow some form of inter-class pooling.

As noted in the CG&E GCR M/P Audit Report, quarterly imbalance reconciliation is a potential concern for operational reasons. The Auditors recommended that quarterly imbalance swings be monitored closely, and the imbalance reconciliation period be changed to annually if such swings persist. Staff concurs with this recommendation and notes that as discussed above, the other Choice programs are evolving toward longer imbalance reconciliation periods. In addition to the operational considerations mentioned in the CG&E M/P Audit Report, longer imbalance reconciliation periods should help to reduce cash-flow problems for marketers.

Staff believes that EBBs can be further standardized among the LDCs and recommends that the LDCs explore such ideas. A working group should be set up with extensive marketer input to assure that the end product is satisfactory to the program participants. The PUCO would then convene a workshop to discuss enhancement prior to finalizing the standards.

TRANSITION COSTS

The introduction of competition into the previously regulated LDC operation of natural gas procurement can and will impact certain cost structures. Stranded capacity charges and other more transitional costs may be incurred as the LDC moves to implement its Customer Choice Program. One time charges for the modification of the Company's computerized billing system, the cost of initial corporate and customer educational programs, and charges (or credits) associated with the time lag in the GCR calculations are examples of transition costs. Assignment and collection of these costs must be fair and equitable to all LDC customers.

There have been a variety of mechanisms for recovery of these stranded costs, each of which avoids simply placing these burdens totally on customers. It should also be noted that the nature of these costs are different than those referenced in electric restructuring discussions. Gas stranded costs are contractual in nature and do not include the risks and rewards compensation for rate base which characterize electric stranded costs.

Cincinnati Gas & Electric

In its Opinion & Order issued on December 12, 1996, the Commission directed "... CG&E to file, within 90 days of the issuance of this order, modified FT (firm transportation) and RFT (residential firm transportation) tariffs that include development of open sourcing options for marketers. The applications attached to this filing should include a proposed solution of how the company intends to address issues raised by marketers such as how to make these transportation programs commercially viable, how to deal with potentially stranded costs (if any), and whether a pooling assessment is necessary or justified. The company should include marketers, and other interested parties in discussions related to the development of the revised tariff proposal."

Following the Commission's directions, the parties met and initiated a process for the development of revised FT and RFT tariffs. The Commission issued Entries granting the parties additional time to negotiate a settlement, and the parties submitted a Stipulation and Recommendation to the Commission on May 19, 1997. On July 2, 1997, the Commission issued an Opinion & Order accepting the Stipulation and Recommendation as modified within the text of the Order.

The accepted Stipulation and Recommendation contained the following transition costs recovery riders:

1. **Firm Transportation Development Cost Rider** (FTDC) of 0.10 cents per CCF applied to all firm sale and transportation volumes. Intended to recover advertising, educational, program roll out, and administrative expenses relayed to the program. Note: these costs and their recovery are subject to an annual review.

2. **Contract Commitment Cost Recovery Rider** (CCCR) of 0.179 cents per CCF applied to all firm sale and transportation volumes. Intended to fully recover all costs of upstream

pipeline contract commitments, propane costs, GSF contract costs, and Rate X-4 and X-5 costs which were incurred to supply firm sale customer who have switched to transportation service. This charge will be adjusted quarterly, concurrent with the Company's GCR filing.

3. **Gas Cost Recovery Transition Rider** (GCRT) is applicable to customers who paid gas supply costs through the GCR during the 12 month period before accepting FT or RFT service. The surcharge or surcredit is limited to the first 12 months of FT or RFT service. This charge will be adjusted quarterly.

The Commission's July 2, 1997 Opinion & Order directed the issue of the FTDC Rider be addressed in a Hearing. With exceptions as noted, the Commission accepted the May 19, 1997 Stipulation and Recommendation. Hearing on the FTDC Rider resolved with another Stipulation and Recommendation, dated August 11, 1997.

The August 11, 1997 Stipulation and Recommendation raised the FTDC Rider to 0.15 per CCF. The Stipulation also promóted the establishment of the **Firm Transportation Maintenance Cost** (FTMC) Rider, to recover ongoing incremental computer system maintenance expenses related to this program. The FTMC Rider of 0.01 cents per CCf is applied to all firm sales and transportation tariffs. This Stipulation and Recommendation was deemed reasonable and accepted through Commission Entry dated August 27, 1997.

Columbia Gas Of Ohio

On October 17, 1996, Columbia Gas of Ohio (Columbia or COH) filed its initial application to establish the Customer Choice Program. The filing was amended on January 3, 1997, and the Commission's Opinion and Order, issued January 9, 1997, approved the amended application. Within the Opinion and Order, the Commission approved the following transition cost recovery techniques:

1. **Stranded Cost Recovery Rider** (SCR) to collect stranded capacity costs and other costs arising as a result of implementing the Choice program. The Rider is applicable to all COH customers, except for those customers whose rates have been flexed to meet competition and to retain throughput. The SCR rider was fixed at $0.0234 Mcf during the first year of the program.

2. **Gas Cost Recovery Transition Rider** (GCRT) is applicable to customers who paid gas supply costs through the GCR during the 12 month period before accepting Choice service. The surcharge or surcredit is limited to the first 12 months of service and will be calculated quarterly.

On November 28, 1997, the Columbia Collaborative members filed a joint Stipulation and Recommendation regarding, among other things, an alternative to the SCR rider. The Company and collaborative members proposed replacing the SCR rider with a Transition Capacity Cost Recovery Pool. This pool would be financed with interstate pipeline refunds, over-collections from implementation of the FERC Order 636 transition cost surcharge, certain off-system sales revenues and other revenue sources. The Company was put at risk through their shareholders for a certain portion of these costs and another portion was absorbed by participating marketers. In an Entry issued January 7, 1998, The Commission approved the new stranded cost recovery method as submitted by COH and the collaborative members.

East Ohio Gas Company

On September 25, 1996, East Ohio Gas (East Ohio or EOG) filed an application to offer two new transportation services. The new services, titled Full Requirements Small General Transportation Service (FRSGTS) and Full Requirements General Transportation Service (FRGTS), introduced gas supply choice to small commercial and residential customers. The application was amended on April 11, 1997, and the Staff and EOG entered into a Stipulation and Recommendation on May 16, 1997.

In its July 2, 1997 Opinion and Order, the Commission determined that the program's "**Transportation Migration Rider** is reasonable and is established on a pilot basis for the purpose of recovering costs associated with implementation and operating this new tariff service." The Transportation Migration Rider includes:

1. Charges for any unrecovered gas cost associated with a migrating customer's prior receipt of GCR service. The actual charge depends on the balance of unrecovered gas cost at the time of the customer's departure, will be calculated quarterly, and will be eliminated after twelve months.

2. The cost of upstream capacity, including contract storage, retained by EOG for operational balancing purposes.

3. A $0.0211/Mcf charge applied to all sales and transportation volumes in those areas where the service is offered, unless discounted to retain a competitive load. This portion of the Migration Rider is designed to recover expenses associated with customer education, employee education, billing system modification and maintenance, and other program implementation costs.

A summary of each Choice program's current transitional cost recovery riders is provided in figure 1.

Stranded Costs

The approved methods for recovery of stranded upstream capacity charges varies among the three Company programs. **CG&E**, whose choice program is available throughout its service area, applies the specific CCCR rider to all sale and transportation volumes. **Columbia,** whose program is limited to the Toledo area, applies the general SCR rider to all sale and transportation volumes made in its entire service area. **EOG** applies the "cost of upstream capacity used for operational balancing" portion of the Transportation Mitigation rider to the individual transporting customer.

All three programs assign supply-related responsibilities to unregulated gas marketers. The three Company programs are not uniform in their approach to assigning upstream capacity to the marketers. **EOG** requires participating suppliers to accept pro rata assignment of interstate pipeline transportation and storage capacity reserved by East Ohio. The assignments are based on the projected design peak day requirements of the customers served by the marketer and the relative percentage of each capacity resource EOG has reserved to meet the projected requirements less the resources needed for operational balancing requirements. Under this formula, about 80% of the Company's reserved capacity is assigned a marketer on a per customer basis.

Neither the Columbia nor the CG&E program requires the assignment of upstream capacity to the alternate gas suppliers. Gas marketers are given the option of acquiring (and paying for) the LDC's reserved capacity or arranging their own methods to supply customers. When offered the choice, all marketers have rejected capacity assignment and chosen to arrange their own upstream capacity. Thus these two programs have higher stranded capacity charges on a per customer basis than East Ohio where the cost is primarily shifted to the marketer.

Transition Costs

All active Choice programs are authorized to collect a Gas Cost Recovery Rider. The Rider is applicable to customers who paid gas supply costs through the GCR during the 12 month period before accepting Choice service. The surcharge or (surcredit) is limited to the first year of service and is calculated quarterly.

The majority of interviewed marketers failed to comment on this specific rider. Those who did comment observed that these charges are not a problem or a significant obstacle to marketer participation. Two suppliers noted that additional costs may make their product noncompetitive against the LDC's regulated gas product. Indeed, marketers were more interested in discussing the appropriateness of pricing their product against the GCR.

All three Choice program recovery other transition costs (e.g. education, training, etc.) from a broad base of sale and transport customers. This recovery method is preferred by the marketers and recommended by them for application to recovery of all necessary costs.

Conclusions and Recommendations

With the exception of East Ohio's mandatory capacity assignment (discussed more fully in the preceding Section), the stranded and transitional cost recovery methods employed by each LDC were not considered restraints to the development and implementation of Choice programs. Generally, the cost recovery riders were applied evenly to program participants and LDC sales customers. The GCR transition cost rider, applying to Choice customers for only twelve months, is a component of the GCR calculation and thus included in the LDC's gas price for a sales customer.

An argument can be made that initially, the Columbia Choice program may have applied its recovery mechanism to an overly broad base of customers. Columbia attached its stranded cost recovery rider to all sales and transportation customers, regardless of their geographic location. East Ohio and CG&E collected transition costs only from customers located in the geographic confines of their respective Choice programs. Only in the COH experiment were charges applied to customers who were located outside of the program's service area. With the introduction of COH's Transition Capacity Costs Recovery Pool and the expected system-wide expansion of its Choice program, this inequity is resolved.

In considering how best to recover transitions costs, it must be recognized that there is an inherent trade off between how those costs are recovered and how attractive a service area is to marketers. The larger the customer base over which transition costs are spread, the greater the margins available, and thus the more attractive the market becomes to competing marketers. On the other hand, fairness would seem to suggest that transition costs be recovered only from migrating customers since they are the source of those costs. The downside of that approach is that it makes the program less attractive to marketers by reducing the potential margin available.

Staff recommends the PUCO Staff and the various stakeholders explore innovative ways to spread transition costs over everyone who has a chance to benefit from the programs. This includes recovering a portion of those cost from participating marketers as well as the utility itself, even if that comes only in the form of having some of the recovery of those costs remain at risk.

One difficulty inherent to all program transitional cost recovery methods is the quarterly recalculation of rider charges. The ever changing rider charges can confuse participating customer and make month to month bill comparisons impossible. Staff congratulates the efforts of CG&E to provide customers with updated rider cost information. CG&E's internet Web site (http://www.cinergy.com/tariffs/rate.htm) provides current billing components for each tariffed service, including applicable Choice rider charges. Customers can compare the current charges applied to sales customers, to those applied in the Choice program. A downloaded example from the Company's Web site is visible as figures 2 through 5. Staff recommends that all Choice participating LDCs establish similar informational sites.

Figure 1

Transition Costs Applicable to Customers

	Columbia Gas of Ohio	Cincinnati Gas & Electric	East Ohio Gas
Contract Commitment Cost Rider		$.009/Mcf - applicable to all customers under Customer Choice.	
Firm Transportation Development Rider		$0.015/Mcf - applicable to all firm service (General Service and Transportation) customers.	
Firm Transportation Maintenance Rider		$.001/Mcf - applicable to all firm service (General Service and Transportation) customers.	
GCR Transition Rider	credit of $.4387/MCF --applicable to Customer Choice customers for 12 months after the institution of service.	$.309/Mcf -- applicable to RFT and FT customers under Customer Choice for 12 months after the institution of service.	credit of $.498/Mcf applicable to Choice customers for 12 month period
Migration Rider (B)(1)(2)			$.086/Mcf applicable to customers under the Customer Choice program.
Migration Rider (B)(2)			$.0211/Mcf - applicable to all firm service (General Service and Transportation) customers.
Stranded Costs Rider	$.0234/Mcf - applicable to all sales and transportation customers.		

Figure 2

The Cincinnati Gas & Electric Company
Billing Components of

Rate Schedule RFT

Residential Firm Transportation Service

Published Monthly
Rates Effective March 3, 1998

Rate Components	Rate RFT		
Customer Charge (Per Month):			
Base Charge assessed to each Customer	$ 5.24		
Excise Tax - 4.89%	$ 0.26		
This is itemized on the monthly CG&E bill as Customer Charge			$ 5.50
Gas Usage Charge (Per CCF):			
Rate RFT Usage Charge	$ 0.1875		
PIPP Rider	$ 0.0120		
Customer Choice Program Charges:			
FTDC Rider	$ 0.0015		
FTMC Rider	$ 0.0001		
Sub-total Gas Usage Charge	$ 0.2011		
Gross Receipts Tax - 4.89%	$ 0.0098		
This is itemized on the monthly CG&E bill as Gas Usage Charge			$ 0.2109
Gas Cost Charges (Per CCF):			
Hypothetical Supplier Commodity	$ 0.3120	[a]	
This is itemized on the monthly CG&E bill as Supplier Gas Charge	$ 0.3120		
State Sales Tax - 6%	$ 0.0187		
This is itemized (as total dollars) on the monthly CG&E bill as Sales Tax	$ 0.0187		
			$ 0.3307
GCRT Rider	$ 0.0309	[b][c]	
CCCR Rider	$ 0.0009		
FSTC Rider	$ -		
Excise Tax on Riders - 4.89%	$ 0.0016		
This is itemized on the monthly CG&E bill as Customer Choice Rider			$ 0.0334
Total Gas Cost Charges			$ 0.3641

[a] hypothetical supplier gas cost, for illustrative purposes only
[b] normally updated quarterly
[c] applied for billing purposes only during the first 12 months that a customer is on transportation service

The Cincinnati Gas & Electric Company
Billing Components of

Rate Schedule RS

Residential Sales Service

Published Monthly
Rates Effective March 3, 1998

Rate Components	Rate RS		
Customer Charge (Per Month):			
Base Charge assessed to each Customer	$ 5.24		
Excise Tax - 4.89%	$ 0.26		
This is itemized on the monthly CG&E bill as Customer Charge			$ 5.50
Gas Usage Charge (Per CCF):			
Rate RS Usage Charge,	$ 0.1875		
PIPP Rider	$ 0.0120		
Customer Choice Program Charges:			
FTDC Rider	$ 0.0015		
FTMC Rider	$ 0.0001		
Sub-total Gas Usage Charge	$ 0.2011		
Gross Receipts Tax - 4.89%	$ 0.0098		
This is itemized on the monthly CG&E bill as Gas Usage Charge			$ 0.2109
Gas Cost Recovery (Per CCF):			
GCR-EGC Charge	$ 0.3321	[a][b]	
Excise Tax on GCR - 4.89%	$ 0.0162		
			$ 0.3483
GCR AA, RA, BA surcharges	$ 0.0309	[b]	
CCCR Rider	$ 0.0009		
FSTC Rider	$ -		
Excise Tax on Riders - 4.89%	$ 0.0016		
Customer Choice Rider Total			$ 0.0334
This is itemized on the monthly CG&E bill as Gas Cost Recovery			$ 0.3817

[a] using GCR rates effective 3/3/98
[b] normally updated quarterly

Figure 4

The Cincinnati Gas & Electric Company
Billing Components of

Rate Schedule GS

General Sales Service

Published Monthly
Rates Effective March 3, 1998

Rate Components			Rate GS	
Customer Charge (Per Month):				
Base Charge assessed to each Customer			$ 16.21	
Excise Tax - 4.89%			$ 0.79	
This is itemized on the monthly CG&E bill as Customer Charge				$ 17.00
Gas Usage Charge (Per CCF):	First 1,000 CCF		Next 4,000 CCF	Additional CCF
Rate GS Usage Charge	$ 0.1763		$ 0.1692	$ 0.1624
PIPP Rider	$ 0.0120		$ 0.0120	$ 0.0120
Customer Choice Program Charges:				
FTDC Rider	$ 0.0015		$ 0.0015	$ 0.0015
FTMC Rider	$ 0.0001		$ 0.0001	$ 0.0001
Excise Tax on Base & Riders	$ 0.0093		$ 0.0089	$ 0.0086
This is itemized on the monthly CG&E bill as Gas Usage Charge	$ 0.1992		$ 0.1917	$ 0.1846
Gas Cost Recovery (Per CCF):				
GCR-EGC Charge	$ 0.3321	[a][b]		
Excise Tax on GCR - 4.89%	$ 0.0162			
			$ 0.3483	
GCR AA, RA, BA surcharges	$ 0.0309	[b]		
CCCR Rider	$ 0.0009			
FSTC Rider	$ –			
Excise Tax on Riders - 4.89%	$ 0.0016			
Customer Choice Rider Total			$ 0.0334	
This is itemized on the monthly CG&E bill as Gas Cost Recovery			$ 0.3817	

[a] using GCR rates effective 3/3/98
[b] normally updated quarterly

Figure 5

The Cincinnati Gas & Electric Company
Billing Components of

Rate Schedule FT

Firm Transportation Service

Published Monthly
Rates Effective March 3, 1998

Rate Components		Rate FT	
Customer Charge (Per Month):			
Base Charge assessed to each Customer		$ 16.21	
Excise Tax - 4.89%		$ 0.79	
This is itemized on the monthly CG&E bill as Customer Charge			$ 17.00
Gas Usage Charge (Per CCF):	First 1,000 CCF	Next 4,000 CCF	Additional CCF
Rate FT Usage Charge	$ 0.1784	$ 0.1711	$ 0.1643
PIPP Rider	$ 0.0120	$ 0.0120	$ 0.0120
Customer Choice Program Charges:			
FTDC Rider	$ 0.0015	$ 0.0015	$ 0.0015
FTMC Rider	$ 0.0001	$ 0.0001	$ 0.0001
Excise Tax on Base & Riders	$ 0.0094	$ 0.0090	$ 0.0087
This is itemized on the monthly CG&E bill as Gas Usage Charge	$ 0.2014	$ 0.1937	$ 0.1866
Gas Cost Charges (Per CCF):			
Hypothetical Supplier Commodity	$ 0.3120	[a]	
This is itemized on the monthly CG&E bill as Supplier Gas Usage Charge	$ 0.3120		
State Sales Tax - 6%	$ 0.0187		
This is itemized (as total dollars) on the monthly CG&E bill as Sales Tax	$ 0.0187		
		$ 0.3307	
GCRT Rider	$ 0.0309	[b][c]	
CCCR Rider	$ 0.0009		
TOP Riader	$ –		
FSTC Riader	$ –		
Excise Tax on Riders - 4.89%	$ 0.0016		
This is itemized on the monthly CG&E bill as Cust Choice Riader		$ 0.0334	
Total Gas Cost Charge		$ 0.3641	

[a] hypothetical supplier gas cost, for illustrative purposes only
[b] normally updated quarterly
[c] applied for billing purposes only during the first 12 months that a customer is on transportation service

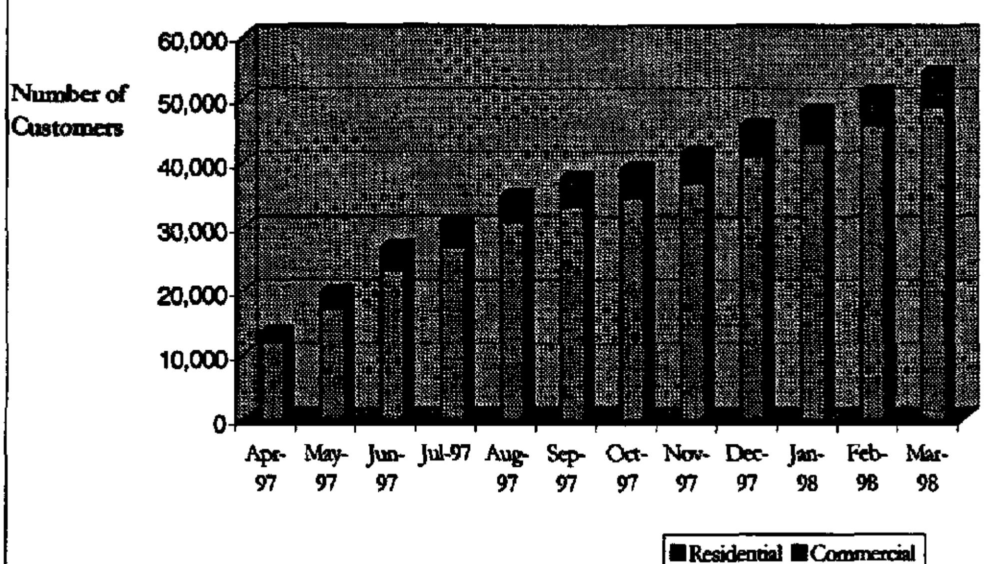
SECTION 5
NATURAL GAS CUSTOMER CHOICE PROGRAM STATISTICS

Customer Choice Program Enrollment Levels

The monthly statistics the Staff collected from the beginning of each natural gas customer choice program through the end of March 1998 show that enrollment in all three programs steadily increased.

The Columbia Gas of Ohio (CGO) Customer Choice Program began gas flow to choice customers on April 1, 1997. Figure 1 shows the increase of customer enrollment throughout the program. By April 1997, 13,493 (8%) of the 170,000 eligible residential and small commercial customers enrolled in CGO's program. The numbers continued to rise from June through August 1997, when usage is lowest, until by the end of March 1998 total enrollment stood at 54,319 customers (32.1%). This includes 49,000 (30.1%) of 158,500 eligible residential and 5,310 (46.2%) of 11,500 eligible small commercial customers.

Figure 1: CGO Customer Enrollment

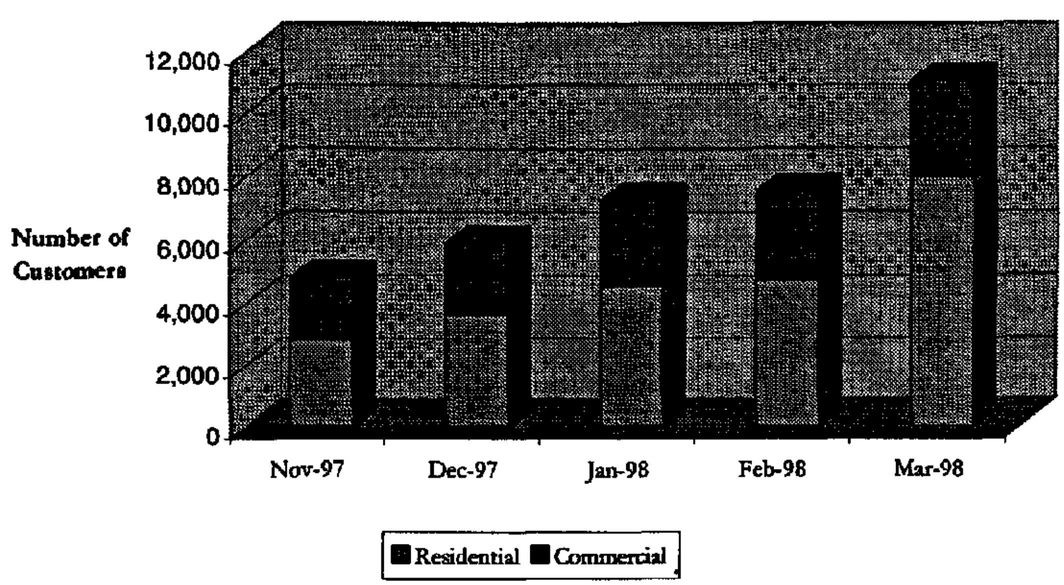


Two key features could have contributed to the program's success at enrolling customers. When the program began, CGO customers were paying \$.55482 Ccf toward gas cost recovery--\$.2348/Ccf higher than one marketer's offer of \$.32/Ccf. Customers in the

Toledo choice program are keenly aware of the overall high utility rates paid in this area. There is strong public interest to reduce utility bill costs. The other feature may have been the high level of customer awareness, which is discussed in detail under "Company-Conducted Gas Choice Consumer Education Program."

The CG&E and EOG programs began enrolling customers in, respectively, September and October 1997 and gas flow began in November 1997 for the CG&E program and in December 1997 for the EOG program. Since these programs are still in the "pilot" stage (scheduled to end in June 1999), there is not as much historical information to draw from. Nevertheless, the staff's preliminary analysis indicates the enrollment levels at the start of the CG&E program (measured by the percent of the eligible customers enrolled with a marketer) do not compare favorably with those during the initial months of the CGO program. Although enrollment increased month by month, the levels rose at a slower rate than the CGO programs. In March 1998, however, CG&E enrollment increased sharply because a marketer participating in the residential side of the program signed up more customers than any single marketer had already enrolled. Total customer enrollment from the start of the pilot program appears in Figure 2.

Figure 2: CG&E Customer Enrollment

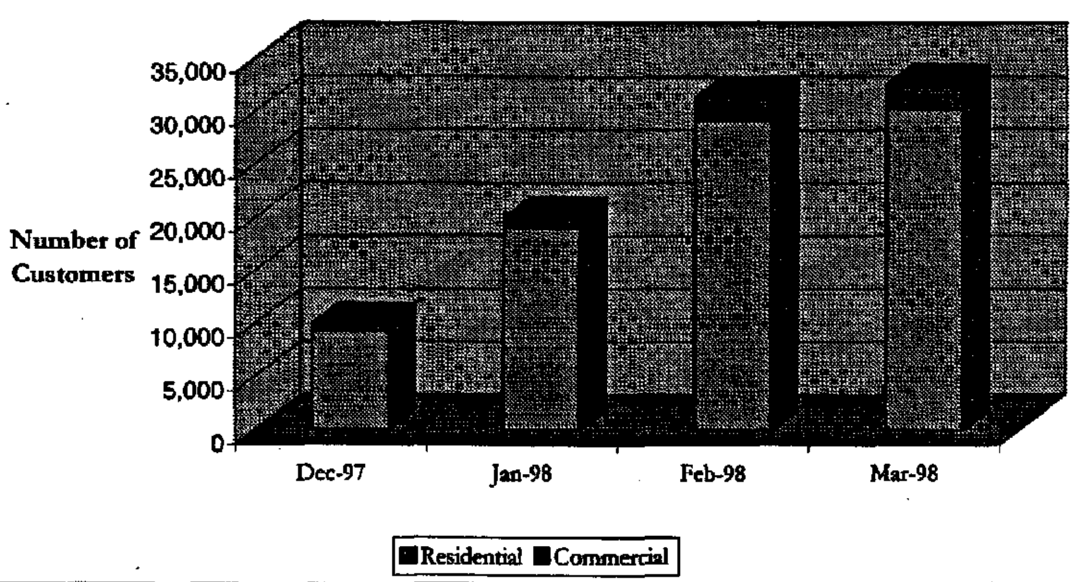


In November 1997, 2,824 (.8%) of the eligible residential customers and 2,006 (5.7%) of the eligible commercial customers enrolled with a marketer. By March 1998, these figures respectively had increased to 7,992 customers (2.2%) and 3,095 customers (8.8%), for a total participation of 11,087 customers (2.8%).

One of the main reasons for the low participation levels in comparison to the CGO program is that customers were unable to experience the savings that were available at the start of the CGO program. This is due to the CG&E's low GCR of $0.3549/Ccf in November 1997 compared to some of the natural gas marketers' offer of approximately $0.338/Ccf (a difference of $0.0168/Ccf).

EOG enrollment level in the first month of its program was also not as high as that at the start of CGO's. During the first month of the EOG program, December 1997, 9381 (6%) of the eligible residential customers and 590 (4.7%) of the eligible commercial customers enrolled with a marketer. By March 1998, the figures had risen, respectively, to 19.3% and 18.7%, for a total of 32,559 customers (19.2%). Figure 3 illustrates the total monthly customer enrollment levels from the start of the program through March 1997.

Figure 3: EOG Customer Enrollment



While the savings available to EOG customers during the initial months of that program were not as great as those available at the beginning of the CGO's, they exceeded those of the CG&E program. During the first month of the EOG program the company's GCR rate was $.4045/Ccf, compared to one marketer's offering of $0.3662/Ccf--a difference of $0.0382/Ccf.

Conclusions

Monthly customer enrollment statistics show that enrollment levels for all three customer choice programs steadily increased. Both the CGO and the EOG program show similar growth rates (by percent of eligible customers) for the initial four months of the program. At the end of CGO's fourth month, 18.2% of the eligible customers enrolled with a marketer, and for the EOG program, 19.2% of the eligible customers enrolled with a marketer. The CG&E's customer enrollment levels were not as high as the other two programs. At the end of CG&E's fourth month, only 1.9% of the eligible customers enrolled with a marketer. The aggressive growth rate experienced in the EOG and CGO choice programs was not experienced in the CG&E program largely because the customer savings were very small. Table 1 reports the customer growth rates from the start of the program through March 1998.

Table 1: Monthly Customer Enrollment Levels

Month	Residential Customers			Commercial Customers			Total Customers		
	CGO	CG&E	EOG	CGO	CG&E	EOG	CGO	CG&E	EOG
Apr-97	7.6%			12.7%			8.0%		
May-97	10.8%			23.3%			11.7%		
Jun-97	14.8%			30.2%			15.9%		
Jul-97	17.0%			33.3%			18.2%		
Aug-97	19.5%			35.5%			20.7%		
Sep-97	21.1%			37.4%			22.3%		
Oct-97	21.8%			38.3%			23.1%		
Nov-97	23.4%	0.8%		40.3%	5.7%		24.7%	1.2%	
Dec-97	25.9%	1.0%	6.0%	41.8%	6.5%	4.7%	27.1%	1.5%	5.9%
Jan-98	27.2%	1.3%	12.1%	44.2%	7.7%	7.8%	28.5%	1.8%	11.8%
Feb-98	29.1%	1.3%	18.6%	45.7%	8.0%	17.3%	30.4%	1.9%	18.5%
Mar-98	30.9%	2.2%	19.3%	46.2%	8.8%	18.7%	32.1%	2.8%	19.2%

STATUS OF COMPETITION

From the Choice programs have sprung new markets in natural gas. The natural question is how well have these markets performed. Market performance depends and derives from the interaction between customers (demand side) and sellers (supply side). Previous sections in this report dealt with the demand side by focusing on customer issues and activities. This section attends to the supply side with attention placed on the scope and competitiveness of marketer activities. The first part reviews the scope of market activity by looking at the number of marketers approved in each program, and the number actively serving residential and commercial customers. Attention then turns toward market structure by looking at the distribution of marketer size in the programs as inferred by market share. Finally, market shares are converted into several measures of market concentration that allow preliminary conclusions to be drawn about market competitiveness.

ANALYSIS OF MARKETER ACTIVITY

Presently, forty distinct marketers have been approved to solicit customers in the Choice programs. Of this group, twenty-six participate in only one program, nine in two programs, with five participating in all three programs. This section briefly reviews the activity of marketers by noting the number approved and the number active in each program. The extent of marketer activity is summarized in Table 1.

Table 1.

Summary of Marketer Activity by Program and by Customer Class
(March, 1998)

Program	Marketers Approved	Marketers Serving Customers	Serving Residential Only	Serving Commercial Only	Serving Both Markets	Total Serving Residential	Total Serving Commercial
COH	23	13	3	2	8	11	10
CG&E	19	11	0	6	5	5	11
EOG	18	12	0	1	11	11	12

Source: COH, CG&E, and EOG interim reports on status of Natural Gas Choice Programs.

As the data reveals, many of the marketers approved in a program are actively serving customers. A good portion, two-thirds, simultaneously serve both residential and commercial customers. In the Columbia and East Ohio programs all but three marketers serve both customer classes.[1] Consequently, these two programs have good balance in the total number of marketers serving residential and commercial customers. Marketers in the Cincinnati program, on the other hand, show a stronger preference for commercial customers. More than one-half of them serve commercial customers only, with no marketer serving solely residential customers. As a result, twice as many marketers do business with commercial customers. Table 2 summarizes across programs the current status of customer participation and marketer presence. It lists by program and customer class the number of customers eligible, the number enrolled, the participation rate stated in percentages, and in parenthesis the number of active marketers.

Table 2

Customer Participation Rate and Marketer Activity
by Program and Customer Class
(March, 1998)

	Residential Market			Commercial Market		
Program	Eligible	Enrolled	Rate	Eligible	Enrolled	Rate
COH	158,500	49,300	31.1 (11)	11,500	5,300	46.1 (10)
CG&E	360,000	4,758	1.3 (5)	35,070	2,932	8.4 (11)
EOG	156,783	30,231	19.3 (11)	12,453	2,329	18.7 (12)

Source: COH, CG&E, and EOG interim reports on status of Natural Gas Choice Programs.

ANALYSIS OF MARKET SHARE

A firm's market share indicates its size, and is normally defined as a firm's percentage of total market sales. The Staff, though, does not have sales or volume information for all marketers across all programs.[2] Instead, market shares are based on the number of customers taking service, with a marketer's share the percentage of total customers it serves of those participating. The following tables show by program and customer class the distribution of market shares, and are best understood by reading down a column. In Table 3, for instance, marketer A in the Columbia program serves 38.2 % of residential customers, 33.1 % of commercial customers, making it number one in the residential market and number two in the commercial market. Tables 4 and 5 read similarly for the Cincinnati and East Ohio programs.[3] The bottom row of each table

[1] Although 11 marketers in the East Ohio program serve residential customers, 4 have less than 10 customers.

[2] Only Columbia Gas reported sale volumes by marketer.

[3] The tables do not reveal the identities of marketers but reference them as A, B, etc. Marketer identity is preserved among customer classes within a Choice program but not across programs. Hence, one should not conclude that Marketer A in the Columbia program is also marketer A in the Cincinnati or East Ohio programs.

gives the marketer's rank in the residential and commercial markets respectively. An "x" implies the marketer has not been ranked because no service has been rendered in the particular market.

Columbia Gas

In the Columbia program, Table 3, marketers appear more evenly sized in the residential market than in the commercial market. One marketer serves 38 % of all residential customers, is twice the size of its next competitor, but the next four marketers are roughly equal in size and together serve more than one half of customers. In the commercial class, by contrast two marketers, roughly equal in size, each with one-third the market, serve 68 % of all customers. The market share of either exceeds the combined market share of all remaining marketers. Together, remaining marketers serve less than one-third of commercial customers. Lastly, marketers prominent in serving residential customers are also prominent in serving commercial customers. The four top marketers serving residential customers are also the top five serving commercial customers.

Table 3.

Marketer Share and Ranking by Customer Class
For Columbia Gas Choice Program
(March, 1998)

Marketer	A	B	C	D	E	F	G	H	I	J	K	L	M
Market Share (Residential)	38.2	18.0	12.4	11.1	10.6	4.0	2.8	0.8	0.8	0.7	0.6	0	0
Market Share (Commercial)	33.1	6.5	5.4	34.6	0	3.2	4.1	2.5	0	0	1.9	7.7	0.8
Ranking (R,C)	1,2	2,4	3,5	4,1	5,x	6,7	7,6	8,8	9,x	10,x	11,9	x,3	x,10

Source: COH, CG&E, and EOG interim reports on status of Natural Gas Choice Programs.

Cincinnati Gas

The Cincinnati program, Table 4, has only five marketers serving residential customers, two of which together serve 68 % of the market. One marketer dominates the residential market with over a 40 % market share, whereas two marketers of roughly equal size control 56 % of the commercial market. Although the commercial market appears more active by having more marketers serving customers, the smallest eight together have less than a 10 % market share. As with the Columbia program, the top marketers serving residential customers are also the ones tops in serving commercial customers.

Table 4.

Marketer Share and Ranking by Customer Class
For Cincinnati Gas Choice Program
(March, 1998)

Marketer	A	B	C	D	E	F	G	H	I	J	K	L
Market Share (Residential)	41.5	26.0	16.8	9.3	6.4	0	0	0	0	0	0	0
Market Share (Commercial)	26.1	30.6	7.3	12.5	3.4	13.8	2.0	1.7	1.2	0.6	0.1	0.1
Ranking (R,C)	1,2	2,1	3,5	4,4	5,6	x,3	x,7	x,8	x,9	x,10	x,11	x,12

Source: COH, CG&E, and EOG interim reports on status of Natural Gas Choice Programs.

East Ohio Gas

The East Ohio program, Table 5, shows the greatest amount of disparity in marketer size. The largest marketer serves 85 % of all residential customers, and is over six times the size of its next competitor. This same marketer also serves 53 % of commercial customers, double the size of its next competitor. The largest two marketers serve 98 % of all residential customers and 79 % of all commercial customers.

Table 5.

Marketer Share and Ranking by Customer Class
For East Ohio Gas Choice Program
(March, 1998)

Marketer	A	B	C	D	E	F	G	H	I	J	K	L
Market Share* (Residential)	85.1	13.2	2.0	0.6	0.3	0.2	0.1	0	0	0	0	0
Market Share (Commercial)	53.0	25.6	2.5	0.6	3.4	1.2	1.6	1.5	1.5	1.7	3.0	4.3
Ranking (R,C)	1,1	2,2	3,6	4,11	5,4	6,10	7,8	x,9	x,9	x,7	x,5	x,3

Source: COH, CG&E, and EOG interim reports on status of Natural Gas Choice Programs.

* Although their market shares are listed as 0, marketers H, I, J, and K do serve a few customers.

ANALYSIS OF MARKET PERFORMANCE

In this section market shares are converted into measures of market concentration as a barometer of competitiveness. The two most commonly used concentration measures are the Herfindahl-Hirschman Index (HHI) and the four-firm concentration ratio (4-Firm CR). The HHI is calculated by summing the squares of market shares of all firms, and ranges in value from 0 (perfect competition) to 10,000 (monopoly). A market is considered "unconcentrated" if its HHI is below 1000, "moderately concentrated" if it ranges from 1000 to 1800, and "highly concentrated" if it exceeds 1800. The 4-Firm CR merely sums the market shares of the four largest firms. A market is considered a "loose oligopoly" if the 4-Firm CR is below 40 % and a "tight oligopoly" if above 60 %. Stated positively, competitive forces are felt sufficient if the top four firms serve less than 40 % of customers, and insufficient if they serve over 60 % of customers. A firm is said to be "dominant" when it lacks a sizable rival and has a market share above 50 %.

One challenge facing policy makers is judging whether a market is "workably competitive". That is, what should a market look like to rely on it as the primary vehicle serving the public interest. Opinions differ of course, yet a liberal definition has at least five firms actively serving customers, none with over a 40 % market share and with other firms fairly equal in size, an HHI around 2000 or less, insignificant barriers to entry and exit, and easy customer switching without significant cost. Drawing from this definition, the Staff uses the following criteria to evaluate market performance in the Choice Programs:

- The number of active marketers,
- The market share of the leading marketer,
- The 2 & 4-Firm CR and HHI measures[4]
- Presence of Entry Barriers
- Ease of Customer Switching

MARKET POWER

The wholesale market for natural gas feeds the retail market, and, as such, its imperfections could mar performance in the retail Choice programs. For instance, a highly concentrated wholesale market could result in highly concentrated retail markets. Then again, a highly competitive wholesale market should bolster to performance in the retail Choice programs. The evidence strongly suggests a highly competitive wholesale market in natural gas. Over 300 gas marketing companies currently participate in the wholesale market, and, according to the Energy Information Administration, the HHI in 1996 is only 243 – a very low level of market concentration. Moreover, the interstate market for transportation and storage services, although

[4] The Staff added the two-firm concentration ratio (2-Firm CR) to the analysis since it presents some of the results more forcefully.

regulated by FERC, is highly active with primary services competing against interruptible services and capacity release. Also, new standards from the GISB process have simplified the nomination, confirmation, and scheduling process for transportation services creating new efficiencies and lowering transactions costs.[5] In short, the wholesale market is an unlikely source of market power to retail programs, and, in fact, its high degree of competitiveness serves as a useful benchmark from which to gauge the performance of the Choice programs.

Residential Market

As of March 1998, the residential markets from the Choice programs would qualify as highly concentrated tight oligopolies. As shown in Table 6, each program has an HHI above 2000, and a 4-Firm CR of 80 % or higher. As indicated by the 2-Firm CR statistic, two marketers control 56 % of the Columbia market, 67 % of the Cincinnati market, and 98 % of the East Ohio market. Based on the statistics, the Columbia market performs best and is nearest to becoming workably competitive. The East Ohio market, on the other hand, deserves special attention for its object lack of competition. A single marketer, East Ohio's affiliate, controls 85 % of the residential market, and as mentioned, two marketers together control 98% of the market. The lack of rivalry has been attributed by marketers to the utility's policy of directly assigning upstream capacity to entrants.[6] The Columbia and Cincinnati programs, by contrast, offer entrants the choice of not taking assigned capacity. Marketers believe direct assignment copies them into "utility clones" denying them the full use and value of their upstream assets and forcing them to compete on the utility's terms.[7] The statistics on the Cincinnati market suggest a moderately high degree of market power with two of every three residential customers enrolled in the program served by either one of two marketers. Another disquieting aspect of this program is its low rate of customer participation with less than 2 % of eligible residential customers presently enrolled in the program.

[5] GISB, the Gas Industry Standards Board, is an industry working group formed out of FERC Order 636 to promote a seamless natural gas marketplace through the development of standards.

[6] This issue is addressed in greater detail in the section on Capacity Assignment.

[7] Marketers, in interviews with Staff, claimed customer savings depend on having alternatives to move gas. Apparently, lower transportation costs contribute significantly to customer savings.

Table 6.

Summary of Market Statistics by Program for Residential Market
(March, 1998)

Program	Number Active Traders	Leader's Market Share	2-Firm CR	4-Firm CR	HHI[8]	Enroll Rate	Entry Barrier
COH	11	38	56	80	2199	31	No
CG&E	5	41	67	94	2805	1	No
EOG	11	85	98	99	7419	19	Yes

Source: Data in tables 1-5.

Commercial Market

The statistics in Table 7 point to higher than desirable levels of market concentration in the commercial markets. The 4-Firm CR is above 80 % in each program, and the HHI is above 2000. The 2-Firm CR indicates that two marketers control 68 % of the Columbia commercial market, 57 % of the Cincinnati market, and 79 % of the East Ohio market. The East Ohio program exhibits market dominance with one firm having a 53% market share. Although the Cincinnati program appears close to becoming workably competitive, the statistics might be misleading due to the very low level of customer participation. Only 8 % of commercial customers eligible have enrolled and have chosen an alternative supplier.

Table 7.

Summary of Market Statistics by Program for Commercial Market
(March, 1998)

Program	Number of Active Traders	Leader's Market Share	2-Firm CR	4-Firm CR	HHI	Enroll Rate
COH	10	35	68	82	2164	46
CG&E	12	31	57	83	2038	8
EOG	12	53	79	86	3516	19

Source: Data in tables 1-5.

[8] Both the leader's market share and the 4-Firm CR are percentages. The HHI is a number ranging from 0 to 10,000 with higher values indicating greater market concentration.

ACTUAL VERSUS IDEAL HHI

The HHI and 4-Firm CR statistics attain their lowest values when all firms are equal in size, that is, when all have equal market share. For instance, the commercial market of the Columbia program has ten marketers currently serving customers. This market performs best, according to the statistics, when each marketer has a 10 % market share, which if so, would result in a 4-Firm CR of 40 % and an HHI of 1000. For our purpose, the "ideal" HHI for a class of customers is the lowest attainable HHI given the number of marketers presently serving them. Table 8 summarizes the results by program and customer class by listing the actual and ideal HHIs side-by-side, and as such, offers another measure of market performance.

As mentioned, the wholesale market has an HHI in the 200s whereas all the Choice programs have retail markets with HHIs above 2000. The retail markets are ten times more concentrated than the wholesale market. The programs all have ideal HHIs around 1000 which would denote a highly competitive market. The sole exception is the Cincinnati residential market that presently has an ideal HHI of 2000 due to its low number of active marketers.

As shown in Table 8, programs have actual HHIs exceeding ideal levels. The ideal HHIs, by being around 1000, suggests the source of market concentration lies in the disparity of marketer size and not with too few active marketers. Hence, smaller marketers must grow at a faster pace as the programs expand for the programs to become workably competitive.

Table 8.

Actual versus Ideal HHI by Program and Customer Class
(March, 1998)

	Residential		Commercial	
Program	Actual HHI	Ideal HHI	Actual HHI	Ideal HHI
COH	2199	909	2164	1000
CG&E	2805	2000	2038	909
EOG	7419	909	3516	833

Source: Data in tables 6 and 7.

Recommendations

The Staff offers recommendations in two areas. The first area concerns the reporting of market information to the PUCO by the LDCs, and the second concerns suggestions to bolster competition in the Choice programs.

The Staff believes the LDCs should collect and report information on marketer activities that enable market power analyses consistent with those of the Department of Justice, the State Attorney General, and consistent with PUCO rules implementing House Bill 476. The standard market power analysis requires defining the relevant market that incorporates a geographic and product dimension. The Staff has not received information enabling a spatial analysis of marketer activity, nor has Staff received information on the volumes delivered to customers by marketers, therefore, Staff recommends the following improvements to LDC reports.[9]

- The LDCs should report to Staff by customer class the monthly volumes of gas delivered by each marketer in addition to the number of customers served.

- The LDCs should collect and report this information on marketer activity by county.

All the emerging retail markets fall short of being workably competitive at this time. However, as noted earlier, these programs are in their developmental stages and any market measurements at this time should be evaluated within that context. The markets all show signs of market concentration, even though in all but one case the problem stems from disparities in marketer size and not from too few active marketers.[10] The East Ohio program has the worst statistics, with a residential market more than thirty times as concentrated as the wholesale market, and eight times more concentrated than the ideal HHI given marketer participation. The Cincinnati program suffers from relatively low rates of customer participation, particularly in the residential market, perhaps too low to draw meaningful inferences on market performance. However, its commercial market does show signs of becoming workably competitive. The Columbia program has the best performing markets overall at this juncture, and the statistics indicate its markets are close to becoming workably competitive.

At this time the Staff recommends the following:

- No particular changes in the Columbia program to bolster to market performance. Market performance should be monitored closely, with a market power analysis performed routinely.

- Further investigation into the low participation rates found in the Cincinnati program. Marketers intimated, in Staff interviews, two possible causes for the program's low

[9] As mentioned, the market share data and corresponding HHI and CR statistics are based on the number of customers served instead of actual volumes delivered by marketers as is the standard practice in market studies.

[10] The exception is the Cincinnati residential market with only five active marketers.

participation rates, and these are Cincinnati's low GCR rates and its lukewarm promotional efforts.