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FILE

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May 9, 2011

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, OH 43215

RE: Case No. 08-~~1334~~ 1344-GA -EXM

To Whom It May Concern:

Please find enclosed an original and 15 copies of the Petition of Ohio Partners for Affordable Energy to Continue Standard Service Offer Auctions. Also enclosed is a corrected service notice and the appropriate number of copies.

If you have any questions regarding these documents, please feel free to contact me.

Sincerely,

David C Rinebolt

David C. Rinebolt
Counsel

Encl – 33

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2011 MAY 10 AM 9:59
PUCO

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services from Chapters 4905, 4909, and 4935 except Sections 4905.10, 4935.01, and 4935.03, and from specified sections of Chapter 4933 of the Revised Code.	)	Case No. 08-1344-GA-EXM

PETITION OF OHIO PARTNERS FOR AFFORDABLE ENERGY TO CONTINUE STANDARD SERVICE OFFER (SSO) AUCTIONS

Ohio Partners for Affordable Energy ("OPAE") hereby respectfully petitions the Public Utilities Commission of Ohio ("PUCO") to deny approval to the proposed standard choice offer ("SCO") auction and continue the Standard Service Offer ("SSO") auctions which have provided significant consumer benefits.

I. Introduction

Ohio has been a pioneer in permitting markets to determine natural gas prices. Beginning in 1985, Ohio introduced access to competitive markets by permitting large customers to source gas directly from suppliers during a period of shortages. *In the Matter of the Commission-Ordered Investigation of the Availability of Gas Transportation Service Provided by Ohio Gas Distribution Utilities to End-Use Customers*, Case No. 85-800-GA-COI, Entry (August 20, 1985). The General Assembly and PUCO have inexorably moved to use competitive markets to establish the prices paid by consumers for natural gas. A settlement with Columbia Gas of Ohio (COH) in the late 1990's created the first 'Choice' program for residential and small commercial customers, larger customers having been freed to pursue competitive in earlier proceedings. *In the Matter of the Application of*

Columbia Gas of Ohio, Inc., for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services, Case No. 08-1344-GA-EXM, Opinion and Order (December 2, 2009), approving Stipulation and Recommendation of October 7, 2009.

At the time Choice was initiated for small customers, utilities were purchasing natural gas through a purchased gas adjustment clause as authorized by O.R.C. 4905.302, generally referred to as a Gas Cost Recovery (GCR) mechanism, under which utility purchasing departments obtained a portfolio of long-, medium-, and short-term wholesale supply contracts as necessary to meet the obligation to serve all customers. Large users were subject to curtailment in order to ensure supply for what were referred to as human needs customers: residential customers; schools; hospitals; and, other entities for which natural gas service is essential. The purchasing decisions of the utilities were and are reviewed by the Staff of the PUCO for prudence, and other parties are permitted to review the filing and offer comments.

For many years the wholesale natural gas markets were an insiders' game, dominated by vertically integrated natural gas companies and independent producers. The Federal Energy Regulatory Commission (FERC), at the prodding of Congress and its own volition, refereed the development of a market suited to the unique characteristics of the participants. Ultimately, FERC broke up the vertically-integrated companies, splitting producers from pipelines from distribution utilities. See FERC Order Nos. 436 and 636, and The Natural Gas Wellhead Decontrol Act of 1989, PL 101-60, 103 Stat. 157 (1989).

After the approval of Choice programs, it rapidly became apparent that marketers could provide lower prices than the utility purchasing departments. Utilities purchasing wholesale supply were driven by their duty to provide service to human needs customers; that translated into a portfolio of contracts of varying terms, a version of hedging focused on physical supply. The new retailers took advantage of the requirements established by the PUCO to ensure service would be provided to human needs customers, and turned to the NYMEX and other wholesale markets to source natural gas at much lower prices. In the early years of Choice in Ohio, savings of 20-25% of the commodity cost were not uncommon. This tremendous benefit to residential and other human needs customers unfortunately lasted only a short time.

In some distribution utilities, purchasing policies suddenly sharpened and prices declined significantly, matching and sometimes besting the offerings of retail marketers. In order to promote competition, the PUCO modified GCR rules permit monthly variable pricing for customers that continued to purchase natural gas from distribution utilities. The monthly price was based on the market price, though certain adjustments were continued to ensure the distribution company recovered its costs. Distribution utilities remained responsible for providing a standard service offer available to customers that chose not to shop, either from a lack of awareness or interest, and those who tested the competitive market and found it wanting.

Duke Energy – Ohio continues to operate under the GCR statute. The other three major Ohio utilities have converted to setting pricing through auctions. These auctions are not actually about the price of the natural gas commodity. Rather, the auctions establish the overhead costs for delivering natural gas. The actual price for the natural gas is set at the monthly NYMEX closing price. Basically, the bidding focuses on determining the price for the overhead which is combined with the price set by the NYMEX close to establish the rate customers pay. Given that the GCR process also produced a price based on adding similar costs incurred by the utility to the NYMEX close, the two methods are comparable. Unlike the GCR process, when a distribution utility bids out the right to supply standard service customers, the PUCO has chosen to exempt the utility from the audit and prudency review process, substituting oversight of the bidding process and thus ensuring that consumers are protected from a flawed market to set the overhead rate. There remains no protection for customers from manipulation of the NYMEX price.

In the case of COH, the current auction is for wholesale supply which is referred to as Standard Service Offer, or SSO. The filing to which this petition responds seeks to establish a natural gas procurement program which assigns customers to competitive natural gas retail suppliers (CNGRS) as retail customers at an overhead price established through an auction, which would set a Standard Choice Offer (SCO). Under an SCO, the price of the natural gas is set at the monthly NYMEX closing price, the same as the SSO. The major difference is that the customers are considered 'retail' customers of the marketers. In addition, customers who choose to shop cannot return to the SCO service unless they affirmatively request it. If they do not, they are assigned randomly to marketers at the lowest variable price offered by that marketer and can switch after a short period of time to another supplier.

Marketers serving retail customers are responsible for procuring pipeline capacity and storage resources, the commodity itself, and manage all the details associated with moving the gas through the transportation system. When a distribution utility serves this same load through wholesale purchases, the wholesale supplier is responsible for these matters. For the retail customers that have not chosen a marketer – either because they had a bad experience with a competitive supplier; have other things on their minds; or, simply do not care – the difference between an SSO and an SCO is academic.

This description reflects a customer viewpoint. The bidding for an SSO and an SCO operates in the same manner and has produced basically the same overhead price. The price of the natural gas is still set by the monthly NYMEX close under either approach.

The overhead rates resulting from the auction are below the back office costs in the industry. What thistells you is that the competition among the market participants is based on their ability to source natural gas at prices below the monthly NYMEX close. There are a variety of strategies to accomplish this, including owning production and skillfully navigating the wholesale market through both the NYMEX and the over-the-counter markets. The latter is where the majority of wholesale natural gas transactions occur, not the NYMEX.

Establishing prices for families and small businesses through wholesale or retail standard offers in combination with other pricing options provided by retail marketers has benefited consumers. First, retail marketers forced down GCR rates. Then, retail markets forced distribution companies to change how standard offer prices were established. Now a robust competitive market, in the form of SSO and/or SCO auctions exists for customers who do not want to shop or who cannot shop. Customers that are uninterested in the competitive market, or decide that further participation is counter to their interests take service under SSO or SCO regimes, generally at prices below those available from marketers.

The instant case derives from a settlement reached in this docket and approved by the PUCO. Under the terms of the agreement, parties may petition the Commission to forego the transition to an SCO auction and retain an SSO wholesale auction approach for establishing standard offer prices. *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 08-

1344-GA-EXM, Opinion and Order (December 2, 2009), approving Stipulation and Recommendation of October 7, 2009.

II. Petition

A natural gas company, as defined by O.R.C. 4905.03(A)(5), is a public utility "engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within this state." The policy of Ohio is to promote the availability of "...reasonably priced natural gas services and goods." O.R.C. 4929.02(A)(1). COH currently complies with these statutory requirements by operating a customer choice program and providing default service through a wholesale/SSO auction.

There is no evidence of record that an SCO auction is superior to an SSO auction or that it is preferable in achieving the policy of the state of Ohio. SSO auctions have produced prices that are often below those in the competitive market, as have SCO auctions. Auction results in cases where both an SSO and an SCO auction have been held demonstrate that the price outcome is essentially the same. Both approaches produce reasonable prices as required by statute.

There are no indications that an SCO "promotes the availability of unbundled and comparable natural gas services and goods that provide ...consumers with the supplier, price, terms, conditions, and quality options...." O.R.C. 4929.02(A)(2). There is no conclusive evidence that an SCO is superior to an SSO in meeting these goals. The Columbia SSO has provided customers with a default service option at a reasonable price, while not inhibiting marketers from offering alternatives to consumers.

The only reason for moving from an SSO to an SCO is that it is a step closer to an exit by the natural gas utility from the merchant function; i.e., the role of serving as a supplier of last resort for customers. An exit of the merchant function by a monopoly distribution utility would create a scenario where customers are forced to shop for an essential energy service. Exiting the merchant function would result in a company like Columbia no longer fitting the definition of 'natural gas utility' under O.R.C. 4905.03(A)(5), because it would no longer supply natural gas to end-use customers.

There is no reason for moving to an SCO.

II. Conclusion

Natural gas is an essential service. In a modern society, ensuring consumers have access to a commodity they depend on for heating, cooking and hot water, among other end uses, is critical. The policy of the State of Ohio is to utilize competitive markets where appropriate to determine the commodity price. The SSO has achieved this goal. The market is open to marketers wishing to offer consumers competitive options. The auction approach ensures a reasonably priced standard offer for those that do not wish to source natural gas in the marketplace. The movement to an SCO does not advance the competitive market. There is no evidence that it stimulates competition, and it fails to benefit consumers when compared to an SSO auction.

Consumers are not clamoring for this change. The transition to an SCO will not result in lower prices for customers nor enhance competition. The Commission should not bless an unnecessary proposal. Legislation or regulation that does nothing for consumers is a waste of time for all involved. The proposed program should be rejected.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition was served by regular U.S. Mail upon the parties of record identified below in these cases on this 9th day of May 2011.

David C. Rinebolt

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I hereby certify that a copy of the foregoing Petition was served via regular U.S. Mail and/or electronically upon the parties of record identified below in these cases on this 9th day of May 2011.

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