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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's	)	
Investigation of the Natural Gas Retail	)	Case No. 13-1307-GA-COI
Market Development.	)	

REPLY COMMENTS OF AARP

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AARP submits these Reply Comments in this proceeding pursuant to the schedule set forth in the Commission's Entry issued June 5, 2013 ("Entry") investigating Ohio's retail natural gas market. AARP filed initial comments on July 8, 2013 and, as with our initial comments, our reply comments were prepared with the assistance of Barbara R. Alexander, Consumer Affairs Consultant. AARP's reply comments focus on those issues that are especially crucial to residential customers, particularly those living on fixed income and low-income residential customers.

I. General Comments

The representatives of the natural gas utilities (Columbia Gas of Ohio, Vectren Energy Delivery of Ohio, and Dominion East Ohio) and consumers (Office of Consumer Counsel, AARP, and the comments of OPAE, et al., representing low income consumers) recommended that the Commission undertake no further initiatives to change the structure of the current retail natural gas market at this time. All of these commenters agreed that the changes that the Commission has ordered with regard to providing default service to residential customers should be allowed to continue and monitored to ensure that retail competition is implemented to provide benefits to customers. In particular, these commenters do not recommend and actively oppose any further move to eliminate default service other than through the provisions and conditions adopted in recent stipulations on this matter applicable to Columbia Gas and Dominion East Ohio.[1]

While Hess Corporation, an active marketer in Ohio, does not recommend any further change in the current natural gas market, the Ohio Gas Marketers Group and

[1] Although AARP was not a party to those proceedings and the stipulations, we oppose the provisions relating to the potential future elimination of default service for residential customers.

Retail Energy Supply Association (filing jointly) propose that it is only by eliminating default service altogether that a competitive market can be created.

AARP's reply comments will focus on our opposition to this proposal to eliminate default service in Ohio's retail natural gas market. The Commission should reject this proposal and turn its attention to the need for a more careful and explicit regulation of CRNGS marketing and contract terms as documented in OPAE's comments in the pending rulemaking[2] to address reforms in the current consumer protection regulations, a matter that has unfortunately not resulted in any further action by the Commission to date.

AARP opposes any move to make more radical changes in the provision of default service or to eliminate such service for residential customers. There is ample evidence that such a move would result in higher natural gas prices for residential customers and would harm customers and not benefit them. Such evidence is provided in OCC's comments based on facts submitted into evidence in formal proceedings in Ohio concerning the higher prices that residential customers have already paid when being served by CRNGS when compared to the default service price.[3]

Furthermore, this example in Ohio is not unique. The Citizens Utility Board in Illinois has tracked prices and contract terms for natural gas marketers since 2002. When compared to the otherwise applicable default service price (which, similar to Ohio, is also a reflection of the pass through of wholesale market gas costs), 94% of the plans selected by Illinois residential customers who switched to an alternative supplier

[2] Case Nos. 12-925-GA-ORD.

[3] OCC at 11. According to an analysis of Columbia Gas bills, customers paid $885 million more than Columbia Gas's applicable default service price when they switched to an alternative supplier.

resulted in losses equal to over $1,100 per customer when compared to default service.[4]

A similar study done in New York also confirmed the significantly higher prices paid by customers who had switched to natural gas suppliers. The Public Utility Law Project obtained data from Niagara Mohawk (a National Grid affiliate in upstate New York) that evaluated 8,709,449 residential customer gas and electric bills over a 24-month period. This study documented that between August 2010 and July 2012, 84 % of the residential electric bills and 92 % of the residential gas bills of those who switched to alternative suppliers were higher than the bills of those who decided to keep getting their supply from National Grid. And those statistics translated into huge disparities in consumer bills. For instance, the data showed that over that 24-month period, those with higher bills paid nearly $500 more for electricity and $260 for natural gas. In total, residential customers served by alternative suppliers paid approximately $130 million more for 24 months of service than they would have paid had they not switched to alternative supplier service and instead received full service from the traditional utility for both electricity and natural gas. This study also specifically reported data for the low income customers served by Niagara Mohawk that were identified due to their receipt of LIHEAP and/or participation in the utility discount program, estimated as 33,015 electricity and 20,840 gas customers. Low income customers who selected an alternative supplier paid a net additional cost of $13.3 million during this study period compared to default electricity rates and $5.8 million during this same period for gas service compared to default natural gas rates. Only a very small percentage of low income customers paid lower prices when served by an alternative supplier, 8.5% of

[4] http://citizensutilityboard.org/GasMarketMonitor.php

electric customers and 6.6% of natural gas customers. These savings were modest over the 24-month period, averaging $40 for electricity and $63 for gas.[5]

The Commission should reject any suggestion that default service be eliminated for the following reasons:

1. There is no basis in Ohio law for such a mandate. Indeed, as pointed out by the OCC, Ohio law retains a mandate that natural gas should be reasonably priced.[6] Nor does Ohio law explicitly mandate that default service be eliminated.

2. The comments filed by Ohio Gas Marketers and RESA offer nothing but allegations about benefits without support or justification. Their comments do not offer any facts that would suggest that consumers would benefit in the form of lower natural gas prices if default service is eliminated altogether. Indeed, their comments conspicuously ignore the evidence cited by the OCC on the historical pattern of customers paying more when selecting an alternative supplier in this regard in Ohio.

Nor do these marketers reference the experience of the only jurisdiction in the U.S. that has eliminated default service for natural gas service in Atlanta, Georgia. Again, the OCC comments document the adverse impacts on consumers that resulted from that decision, one that no other state has implemented in part due to the adverse publicity and adverse impacts associated with the Atlanta Gas Light experiment. As documented in the OCC's comments, Atlanta Gas Light customers have consistently paid a higher price than the national average for essential natural gas service since default service was eliminated, a reversal of the pre-exit price trends. Furthermore, the

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[5] Direct Testimony of William D. Yates, C.P.A., on behalf of the Public Utility Law Project of New York, Inc., before the New York Public Service Commission, Proceeding for Niagara Mohawk Power Co. for Natural Gas and Electric Rates, Case No. 12-G-0202 and Case No. 12-E-0201 (August 31, 2012).

[6] R.C. 4929.02(A)(1).

Atlanta Gas Light market was beset with marketer failures (and, as a result a significant reduction in the number of marketers in this program), as well as higher prices for residential customers, particularly low-income customers, significant consumer protection abuses, all of which resulted in harm to consumers. The resulting furor culminated in legislative intervention to reform some aspects of that market in 2002.[7]

3. Rather than provide any facts that would support their position that a competitive market should eliminate default service, the comments submitted by Ohio Gas Marketers and RESA are primarily directed to alleging that the SCO is subsidized because certain costs are not reflected in the SCO and those costs must be incurred by CRNGSs. However, the comments fail to include any factual information about the so-called subsides in terms of actual costs, as well as not including any information about costs that CRNGSs actually incur to market and enroll their customers. Furthermore, these comments fail to recognize or take into account the significant subsidies already provided to the CRNGSs in the form of (a) access to an electronic data exchange system maintained and operated by the utilities for CRNGS enrollments paid for by ratepayers; (b) ratepayer subsided consumer education costs; and (c) ratepayer subsidized billing and collection systems that CRNGSs use to bill and collect their

[7] The Governor's Blue Ribbon Natural Gas Task Force (February 5, 2002) recommended significant reforms and many of those recommendations were adopted in 2002 in the Natural Gas Customers Relief Act. The report and subsequent legislation is available at the Georgia PSC website: http://www.psc.state.ga.us/gas/ngdereg.asp A key finding in the Governor's Report was:

> The benefits of deregulated rates have been decidedly mixed with a small number of natural gas users, particularly large industrial customers, receiving lower prices than before deregulation, but with most users, particularly those with fixed and lower incomes, being buffeted by higher than anticipated prices, volatile prices, poor customer service (billing error, billing failure, inability to reach marketer call centers, disputed disconnections of service), and increased difficulty in responding to the high bills of last winter, resulting in higher overdue balances, particularly for low -income customers. Report at 1-2.

customers through the distribution utility. The fact that CRNGSs now complain that they have costs and burdens associated with marketing their products is disingenuous at best.

4. The suggestion by these marketers that customers who remain with default service means that such actions reward "apathy or indifference"[8] is not only insulting, but wrong. Ohio has been implementing retail natural gas competition for over 10 years. There are many marketers licensed to serve and serving residential customers. There are no doubt several reasons why customers remain with default service, but there is also no doubt that some customers have affirmatively chosen to remain with SCO and its predecessors. But, there is no doubt that some customers have affirmatively chosen to return to SSO. Default service is part of a competitive market that offers choice. There is no factual basis for the conclusion that customers who either choose not to choose or who affirmatively choose SCO should be treated as immature or ignorant who simply don't know their own mind. When the evidence that CRNGSs may in fact charge higher prices than default service is considered, it may be that the customers who choose a CRNGS are misled by the promise of savings to incite them into agreeing to the contract and specifically choose to return to SSO. Natural gas service is essential for dwellings that rely on natural gas for heating and cooling and the adverse impacts on health and safety when such service is not provided on affordable and reasonably priced terms is significant. The Commission should not entertain any proposal to eliminate default service based on the unsupported comments submitted by these marketers.

[8] Ohio Gas Marketers and RESA at 9.

II. Conclusion

An essential attribute of a competitive retail market is effective regulatory oversight of marketers to prevent unconscionable contract terms, prohibit unfair and deceptive business practices, and ensure transparent prices and consumer education about how to shop. Retaining a stable and transparent default service for residential customers is critical to these attributes. The existence of this service permits customers to compare the price, terms, and conditions of marketer offers against a plain vanilla offer with simple and transparent terms. This allows marketers and governmental aggregations to offer products with alternative prices, terms, and conditions. Customers then have the ability to compare their options – to shop. The standard offer plays the same role in the retail natural gas market that the NYMEX plays in the wholesale natural gas market, establishing a benchmark to which other wholesale opportunities can be judged. Furthermore, default or standard offer service serves as an important market-based check on predatory pricing or collusion.

Ohio has a retail natural gas market where that price for natural gas service is established based on market forces for all customers, including those who are served by default service. CRNGSs are able to offer competitive services and are not subject to price regulation. This is the vision of the General Assembly. There is no justification for any changes in SCO to further the statutory policies. Rather, the Commission should focus on effectively overseeing marketer business practices to ensure customers are served in a fair and reasonable manner.

AARP recommends this docket be closed after reply comments are filed. The Commission should turn its focus to improving consumer protection rules so the market works efficiently and effectively for customers.