BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901:1-13 of the Ohio Administrative Code, Regarding Minimum Gas Service Standards.	))))	Case No. 13-2225-GA-ORD

REPLY COMMENTS OF THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO, VECTREN ENERGY DELIVERY OF OHIO, INC. AND COLUMBIA GAS OF OHIO, INC.

In accordance with the Commission's February 26, 2014 Entry in this case, The East Ohio Gas Company d/b/a Dominion East Ohio (DEO), Vectren Energy Delivery of Ohio, Inc. (VEDO), and Columbia Gas of Ohio, Inc. (Columbia), together "Companies," jointly file their reply comments to the comments filed by the Office of the Ohio Consumers' Counsel (OCC) regarding Staff's proposed revisions of Ohio Adm. Code Chapter 4901:1-13. The Companies would note that they do not address every comment filed by OCC; any silence in that regard should not be taken as support for any unaddressed comments.

I. REPLY COMMENTS

A. Ohio Adm. Code 4901:1-13-04, Metering.

OCC proposes a number of revisions to Rule 4901:1-13-04, regarding metering. None should be adopted.

1. The Commission should reject OCC's proposal to require gas or natural gas companies to provide a free meter test every three years.

Paragraph (D) addresses meter tests at the customer's request. OCC recommends that this paragraph be amended to allow a natural gas customer to request a meter test once every three years without having to pay any charges or fees. The Companies disagree with OCC's proposal for the following reasons.

First, OCC's proposal would be costly, a fact that OCC admits in its initial comments. (OCC Comments at 3.) In addition to the direct, incremental costs of the time and labor to meet increased testing volume, OCC's proposal would also impose additional indirect costs (additional call-center volumes, considerable reprogramming of computer systems to track whether a particular meter test is free of charge) and opportunity costs (the resources devoted to free meter tests could have been devoted elsewhere). While the test may be free of charge to a particular customer, the proposal would increase costs to all customers.

OCC has not shown that these increased costs would either be necessary or provide any proportional benefit. Its primary justification for these increased costs is the intangible "value" in customers having "confidence that they are being properly billed." (*Id*. at 4.) But OCC has not shown that the current rule—which permits a request for meter testing at any time, with costs to the utility if the meter is inaccurate—fails to instill that confidence. On the contrary, for example, DEO has noted a marked drop in meter-test requests since the adoption of AMR technology—from 76 requested tests in 2006, before widespread AMR installation, to only 10 in both 2012 and 2013, around the time installation was completed. Incidentally, in 2012 and 2013 combined, only one meter failed a test. There is no need for OCC's proposal.

OCC also argues that its proposal is consistent with the electric service standards, but it fails to account for the differences between the electric and gas sectors. First, the testing of a gas meter is a lengthy and costly process: it requires terminating gas service for the duration of the test and relighting all appliances afterwards, which may be an unexpected inconvenience for the customer. More importantly, the time when free meter tests would most likely be requested—with the onset of cold weather, when consumption and bills increase—coincides with the peak period of demand on the Companies' field resources. Thus, OCC's proposal would likely drain field resources at a time when they are most in need. The solution would be to increase resources to meet higher peak-period demands, but doing so would be costly, both absolutely and in terms of the cost per unit of work. Such increases should not be lightly imposed, and certainly not here, when OCC has failed to show any need for the new rule.

OCC bears the burden of supporting its own proposal, *see, e.g.*, *In re Purchased Gas Adjustments Clause of the E. Ohio Gas Co.,* Case No. 82-87-GA-GCR, 1983 Ohio PUC LEXIS 73, Opin. & Order, at *20 (Apr. 13, 1983) ("as we have noted before, once a party raises an issue the burden of proof then falls upon the party who raised that issue"), but it has not provided any evidence or explanation showing that the current rule insufficiently balances the costs of testing gas meters with customer concerns. OCC's proposal should be rejected.

2. The Commission should reject OCC's proposal that the Companies pay at least three percent interest for customer overcharges exceeding six months.

Paragraph (D)(5)(c) addresses billing adjustments when a customer overpays as a result of an inaccurate meter. OCC recommends that this paragraph be amended to require that when a customer has been overcharged for a period exceeding six months, the gas or natural gas company be required to pay interest of at least three percent per year on the amount of the overpayment. (OCC Comments at 4–5.)

This proposal should be rejected. First, there is no need for it. OCC's proposal only applies to (*1*) overbilling that is (*2*) caused by a faulty meter and (*3*) that extends beyond six months. But the Companies' experience shows that, to the extent faulty meters cause billing issues, the result is *underbilling*—meters that fail typically stop registering or slow down. Moreover, for utilities, such as DEO and Columbia, that have installed automatic-meter-reading devices and moved to monthly meter reading, equipment issues are usually detected within two to three months.

For these reasons, OCC's rule would rarely come into play and rarely, if ever, involve more than six months of overbilling from a faulty meter. OCC has not presented any evidence or explanation suggesting otherwise. Because the rule's remedy is not necessary, neither are its costs—and the rule would increase costs. Programming and business-process changes would certainly be required to implement this proposal, but there has been no showing that customers have suffered due to any lack of interest on overpayments.

Finally, the Companies would note that OCC's proposal is one-sided: if utilities must pay interest on the return of *over*charged amounts, then fairness dictates that *under*charges also be returned with interest—and perhaps the account balances of delinquent customers or those on a payment plan, as well. OCC notably has not proposed that treatment. It also bears mentioning, given OCC's frequent citation of the electric service standards, that those standards do *not* impose an interest requirement.

OCC's proposal is unnecessary, and it should be rejected.

3. The Commission should reject OCC's list of factors to be considered in estimating prior usage for reimbursement purposes.

In the event that that an overcharge due to a faulty meter occurs, OCC also proposes that paragraph (D)(5)(c)(i) be amended to include a list of factors that gas or natural gas companies must consider when calculating the amount of the overcharge. (OCC Comments at 6.) This proposal, which would essentially require utilities to perform individual reconstructions of past periods of usage, is unreasonable and must be rejected.

The current rule requires the utility to calculate the overcharge "on the basis of a customer's metered usage" in prior or subsequent periods. Ohio Adm. Code 4901:1-13-04(D)(5)(c)(i). OCC claims that "there are several other factors that affect natural gas usage on a monthly basis that must also be considered." (*Id*.) It lists:

- weather,
- number of heating degree days,
- changes in household size,
- changes in appliances and mechanical upgrades, and
- other energy efficiency measures implemented after the period of meter inaccuracy.

The best that can be said for this proposal is that, abstractly and conceptually, each factor proposed by OCC could bear on usage.

But the costs of implementing this rule would be exorbitant. OCC expects utilities not only to perform an individualized assessment of environmental factors occurring during a period of inaccuracy, but also to individually interview each and every customer and survey each and every home in the event a meter has an issue. Despite the fact that residential customers would bear the cost of compliance with this rule, OCC does not even attempt to explain how such information could be cost-effectively collected.

Of course, the fact that OCC's proposal would be expensive does not mean that it would achieve accurate predictions. For example, OCC does not account for many factors that would also impact consumption, including actual occupancy, the possibility of house-line leaks, changes in customer preferences or behavior, changes in home size, and similar factors. The Companies are not suggesting that the answer is to add more factors: the point is that the goal of a perfect reconstruction is not met even by OCC's wish list. Furthermore, the more factors involved in such calculations, the more the calculations could be called into question. In contrast, comparing metered usage in prior or subsequent periods is simple and straightforward.

Nor does OCC address what would happen if such a reconstruction suggested that *more* usage occurred in the period of metering inaccuracy than in the comparison periods. If the weather were substantially colder or the household substantially larger during the period of overbilling, the customer could see a substantial *reduction* of any refund. And if the rules require utilities to reconstruct past periods of usage, formal complaints requiring the Commission to do so could easily follow. OCC's rule would likely generate controversy, not eliminate it.

Finally, it should go without saying that implementing this proposal would require substantial costs. Reprogramming, employee training, and other business-process changes would all be needed to get ready to perform such individualized studies anytime an overcharge occurs. Given (as discussed above) that the Companies expect periods of extended overbilling to be rare, and given the problems with OCC's proposal, it would be pointless to undertake the systemic changes required to implement it.

OCC's proposal is unreasonable and should be rejected.

4. The Commission should reject OCC's proposal to reproduce additional statutory language in the rules.

Existing Rule 4901:1-13-04(G)(2) requires utilities to comply with R.C. 4933.28 when adjusting an underpayment on a customer's bill. OCC recommends that "customers . . . be informed about their statutory right to have at least twelve months to pay the undercharged natural gas amount." (OCC Comments at 7.) OCC has not justified this proposal.

The Companies recognize that Staff has already proposed including a sentence from R.C. 4933.28 in the new rules. Although the Companies did not object to this proposal in their initial comments, they question the necessity of using the administrative rules to reproduce quotations of statutory language. While the rules should certainly be consistent with the statutes, the Companies see little benefit in merely parroting them.

This is particularly true in this case. Rule 4901:1-13-04(G)(2) already clearly notifies customers of the applicability of R.C. 4933.28. And the provision that OCC requests to be quoted already imposes a *mandatory* requirement that utilities must follow: customers do not need to inquire about or ask for this payment treatment. *See* R.C. 4928.33(A) ("The maximum portion of the undercharge for unmetered gas or electricity rendered that may be recovered from the customer in any billing month shall be determined by dividing the amount of the undercharge by twelve . . . ."). There is no reason to notify customers of what the Companies are already doing in accordance with the statute. Finally, any customer savvy enough to locate and research the Ohio Administrative Code in dealing with such payment questions will surely be savvy enough to follow the existing cross-reference to the Revised Code.

Utilities are the primary audience of the Commission's rules, and treating the Administrative Code as a repository for customer notices and information will only detract from the Code's predominant purpose of clearly and succinctly setting forth the rules applicable to utilities. There are existing (and better) ways to provide customers with information; filling the rules with block quotations is unnecessary.

B. Ohio Adm. Code 4901:1-13-05, Minimum customer service levels.

1. OCC's recommendation to strike language from the proposed rule should be rejected.

Existing paragraph (C)(1) requires utilities to provide notice of a four-hour arrival window for scheduled reconnections. Staff proposed excepting from this rule customers who are being reconnected "pursuant to rule 4901:1-18-07," which are unique rules regarding the reconnection of disconnected customers. OCC recommends striking the newly proposed language.

OCC's proposal should be rejected. It fails to recognize that in many cases Rule 4901:1-18-07 provides *more beneficial* treatment to such customers, such as same-day or next-day reconnection. *See, respectively,* Ohio Adm. Code 4901:1-18-07(B) & (A)(1). (Other customers are directed to be reconnected under different rules—including the rule under review—in which case OCC's concern would not even apply. *See id*. (A)(2).) Given the accelerated timeframes contemplated by these rules, it may not be practicable to give advance four-hour arrival windows. Thus, Staff reasonably exempted these customers from the requirement. OCC's proposal to delete this exemption should be rejected.

2. OCC has not shown any need to file the annual report required by (E)(3).

OCC also proposes that the annual report required under paragraph (E)(3) should not only be submitted to the director of the Commission's Service Monitoring and Enforcement Division, but also be publicly filed. (OCC Comments at 9–10.)

OCC has not shown the necessity for this proposal. Utilities submit numerous documents and reports to the Commission throughout the year; relatively few of these documents are publicly filed. OCC only provides a single sentence generally asserting that a public filing promotes "openness and transparency in government." (*Id*.) Under this rationale, every document submitted to the Commission should be filed, and OCC has not explained why this report should be treated differently than any other document. Moreover, utilities strive to be compliant with the regulations to which they are subject. That they may have occasional circumstances when compliance is not perfect is a matter that should be dealt with between Staff and the utility, particularly when significant issues are not apparent. As the Commission well knows, there are numerous laws and policies already promoting openness and transparency. OCC's proposal should be rejected.

C. Ohio Adm. Code 4901:1-13-10, Complaints and complaint-handling procedures.

New paragraph (G) addresses what the utility must do when a customer contacts it concerning competitive retail natural gas (CRNG) service issues. OCC proposes several additions to this paragraph, including new paragraph (G)(5). First, OCC submits that if a customer contacts a utility regarding a CRNG service issue, and the utility has an MVR rate, the utility "*shall* explain the difference between the SCO rate and the MVR and inform the customer that to obtain the SCO, the SCO rate must be specifically mentioned." (OCC Comments at 12 (emphasis added).) This is not the only addition: "If a customer wishes to enroll in the SCO, the Utility should assist the customer in enrolling . . . *even if the customer fails to use any specific words*." (*Id* (emphasis added).) These proposals must be rejected.

First, OCC's proposal to mandate utilities to explain MVR and SCO differences must be rejected. The Companies fully support educating customers regarding gas supply options. But the clear result of OCC's proposal would be to annoy customers with unnecessary, unrequested information. If a customer calls seeking information regarding the MVR or SCO, or the differences between them, the utilities will of course provide it to the best of their ability. But not every issue concerning CRNG service involves the difference between the MVR and SCO rate. Customers calling their utility about slamming, enrollment, or any number of CRNG-related issues want to resolve *that* issue. They do not want to spend any more time on the phone than necessary—and certainly not to endure a canned announcement explaining a distinction between two rates that have nothing to do with what they called about.

The second part of OCC's proposal cannot be considered seriously. How could anyone possibly be expected to know that "a customer wishes to enroll in the SCO" "if the customer *fails to use any specific words*"? OCC does not propose any solutions. In support, OCC asserts that there is a "requirement to use specific words in requesting the SCO service" (*id*. at 11), but it neither explains the source of this alleged requirement nor gives any reason to think that customers who desire SCO service have been denied for failure to say the password. Short of employing telepathic call-center representatives, OCC's rule would be literally impossible to comply with.

OCC's proposed additions to paragraph (G) are unreasonable and must be rejected.

D. Ohio Adm. Code 4901:1-13-11, Gas or natural gas company customer billing and payments.

1. The Commission should not require a price-to-compare notice on utility bills.

The Commission's rules currently require the Companies' bills to "prominently display[]" an "'apples-to-apples' notice." Ohio Adm. Code 4901:1-13-11(B)(27). In addition to this notice, OCC would also require bills to include a "price to compare" and refer customers to OCC's "Comparing Natural Gas Choices." (OCC Comments at 13.) The Commission should reject this proposal.

First, these issues have already (and recently) been vetted by the Commission in Case No. 13-1307-GA-COI. Numerous parties offered comments both for and against the concept of the SCO serving as a "price-to-compare," but rather than adopt a firm position on the matter, the Commission instead noted that it would continue to monitor the retail market and expressed "a certain amount of faith in the market to provide the best possible price for consumers." Entry at 7 (Feb. 13, 2014). Nothing of consequence has changed in the interim, and OCC's insistence that LDCs include the SCO as the "price to compare" on customer bills is inappropriate in this case.

Even if OCC's proposed notice were to be considered, and the Companies think that it should not, the significant costs and impacts on customers to whom the notice does not apply and on the readability of the bills would accomplish nothing but presenting information that is already readily available to interested customers. Even OCC acknowledges that the "Apples to Apples comparison charts are available for use by all residential, commercial, and industrial customers" and that "residential customers can obtain a copy of the 'Comparing Natural Gas

Choices' fact sheet from the OCC." (OCC Comments at 14.) While pricing information and web resources can be useful in some situations for some customers, it does not follow that these items should be included on every monthly bill.

In addition to the problems already noted, the language of OCC's notice is problematic. At bottom, the notice is misleading; contrary to OCC's proposal, it cannot be abstractly stated that a particular price will "save money off your utility's supply charges." (*Id.*) Unless both rates under comparison are set using monthly adders from the same baseline (and unless those adders will not change in the pertinent period), a snapshot comparison of per-Mcf rates will not necessarily disclose the money-saving offer. Historical performance simply does not guarantee future results: commodity prices change, which limits the usefulness of historical information as a predictive tool. Moreover, some offers present benefits other than being the present low price. Most notably, fixed-price offers may be higher in the short-term but provide predictability and protection from upward price swings over time. For these reasons, a "price to compare" can mislead the customer by suggesting that the present price is the only consideration for evaluating competitive offers.

OCC asserts that the electric rules and certain Staff comments filed regarding the electric markets support its proposal. (*Id*. at 13–14.) First, this is not true: the electric rules do *not* contain anything like the language that OCC proposes for inclusion in the gas rules. A 90-word block of text, like OCC's proposal, is not required. While the natural gas rules require an "Apples to Apples" notice, the electric rules only require a "price-to-compare notice." This shows how the electric rules and gas rules encourage shopping in different ways. In the Companies' view, the gas rules are superior: they point the customer to a presentation and explanation of various offers, while simply listing a "price to compare" oversimplifies the decision and potentially misleads the customer.

Finally, this is one area where it would not make sense for the gas rules to follow the electric. The circumstances in the retail competitive markets have been drastically different for natural gas and electricity over the last 15 years. While natural gas choice programs such as DEO's and Columbia's have met with substantial success, the electric industry's, until recently, have not. So the mere fact that the electric rules require a price-to-compare notice does not show that such a notice is advisable for natural gas companies.

OCC's proposed notice would impose significant burdens without appreciably assisting customers. This proposal, like the others, should be rejected.

2. The Companies reiterate their opposition to the proposed 21-day due date for out-of-state bills.

OCC also supports Staff's proposed revision to Ohio Adm. Code 4901:1-13-11(C) that would give "residential customers . . . at least twenty-one days from the date on the actual bill to make payment if the bill is issued from outside the state of Ohio." (OCC Comments at 15.) In their initial comments, the Companies explained in detail both the lack of need for this rule and the financial and cost-of-service impacts that it would cause. (*See* Joint LDC Comments at 15–16.) While OCC supports this rule, it addresses neither issue.

The Companies reiterate their strong opposition to Staff's proposed extension of due dates for out-of-state bills. The current due-date requirements have provided ample time to pay bills, and no party has even suggested the contrary, much less presented supporting evidence. If there is any need for the rules to address out-of-state bills, they should merely require that utilities "take reasonable steps to ensure timely delivery to customers."

II. CONCLUSION

DEO, VEDO, and Columbia appreciate the opportunity to comment on the proposed rules. For the foregoing reasons, the Companies respectfully request that the Commission act in accordance with their comments.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments were served by electronic mail on the 11th day of April 2014 to the following:

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