

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of the Minimum Gas Service)	
Standards in Chapter 4901:1-13 of the)	Case No. 19-1429-GA-ORD
Ohio Administrative Code.)	

**MEMORANDUM CONTRA THE APPLICATION FOR REHEARING
OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
BY INTERSTATE GAS SUPPLY, INC.**

I. INTRODUCTION

On March 27, 2020, the Office of the Ohio Consumers' Counsel ("OCC") filed the sole application for rehearing of the Commission's Finding and Order ("Order") adopting amendments to Ohio Adm.Code Chapter 4901:1-13 regarding the rules for minimum gas service standards. Interstate Gas Supply, Inc. ("IGS" or "IGS Energy") urges the Commission to deny each of the assignments of error asserted in OCC's application for rehearing and uphold the Commission's Order in its entirety for the reasons listed below.

II. ARGUMENT

A. The Commission properly declined to adopt OCC's proposal to require the LDCs to record and publicly release shadow billing data.

In the Order, the Commission properly rejected OCC's proposal to require the local distribution companies ("LDCs") to provide shadow billing data to customers on an annual basis, as well as publicly release a report containing the data.¹ Consistent with decade

¹ Order at ¶ 89.

long precedent, the Commission found it unnecessary because there are a number of existing resources that provide customers with information about pricing, such as the Commission's Energy Choice Ohio website.² Additionally, the Commission noted that OCC's proposal would require significant billing system changes, something OCC itself recognized.³

In its first assignment of error, OCC argues that the Commission's rejection of shadow billing because it would require significant billing system changes was not based on the record before the Commission in this proceeding, and thus violates R.C. 4903.09.⁴

However, the Supreme Court of Ohio has held that rulemaking proceedings before the Commission are not "contested cases," and thus, the requirements of R.C. 4903.09, such as reliance on the record, do not apply.⁵ In addition, the Commission has been given an express exemption from the record requirements during a rulemaking procedure through R.C. 119.01(A)(1).⁶ Accordingly, in this proceeding the Commission "was not required to develop an evidentiary record to support its rule making decision, and could

² *Id.*

³ *Id.*

⁴ OCC Application for Rehearing (Mar. 26, 2021) at 2-4. OCC alleges that the Commission failed to cite to evidence in the Order. Yet, in an ironic turn of events, OCC offers as "evidence" hearsay from a newspaper article.

⁵ *Craun Transp., Inc. v. Pub. Util. Comm.*, 162 Ohio St. 9, 10 (1954) (determining that the Commission question was not subject to the procedural requirements of Section 614-46a, General Code, predecessor of R.C. 4903.09, in the promulgation and adoption of rules); see *In re Comm.'s Review of Chapter 4901:1-19 of the Ohio Adm.Code*, Case No. 17-1945-GA-ORD, Second Entry on Rehearing (Feb. 27, 2019).

⁶ *In re Commission Ordered Investigation of an Elective Alternative Regulatory Framework for Incumbent Local Exchange Companies*, Case No. 00-1532-TP-COI, Finding and Order (Apr. 25, 2002) at 9.

adopt [] rules upon a variety of sources and expertise of the Commission.”⁷ Therefore, OCC’s assertions are misplaced.

Additionally, OCC claims that the Commission erred when it found that there are a number of existing resources available to customers to compare pricing and available offers, such as the Energy Choice Website, because it contradicts with the Commission’s subsequent recognition that some Ohioans lack internet access.⁸ This argument should be rejected as well.

Initially, OCC’s internet claim is overblown and out of context. The Order referred to access to “broadband” internet. While that speed may be required for streaming capabilities, the Energy Choice Website is easily accessible by phone regardless of download speed. Regardless, the Order simply used the Energy Choice Website as an example of one of the “number of existing resources” that provide information to customers about natural gas choice.⁹ Indeed, later in the Order, the Commission specifically recognized that Ohioans without internet access may contact the Commission Call Center as resource about shopping, the number to which is required to be placed on every bill.¹⁰ OCC fails to present any new or compelling arguments that would overturn

⁷ *Id.*

⁸ OCC App. for Rehearing at 5-6.

⁹ Order at ¶ 89.

¹⁰ R.C. 4928.10(C)(4).

ten years of Commission's decisions finding the current resources sufficient.¹¹ Therefore, the Commission should deny OCC's rehearing request on this issue.

B. The Commission correctly declined to adopt a prohibition on including non-commodity goods and services on utility-issued bills.

In the Order, the Commission properly rejected Staff's proposed prohibition on the inclusion of charges for non-commodity goods and services on natural gas bills, providing consistency with its recent amendments to similar electric rules.¹² In addition, the Commission determined that the current slate of rules were sufficient to protect customers from unreasonable charges and service shutoffs.¹³

In its second assignment of error, OCC again alleges the Commission's decision is unreasonable because it fails to protect customers.¹⁴ Yet OCC presents no new or compelling arguments on rehearing. Instead, OCC simply continues to assert that customers will somehow be harmed from including non-jurisdictional charges on the utility consolidated bill without providing any evidence or support for this claim.

In contrast, multiple stakeholders highlighted the benefits provided by products and services and the convenience to customers that a consolidated utility bill provides in this proceeding. IGS and Pivotal Home Solutions ("Pivotal") both shared that based on their

¹¹ See 2009 MGSS Case, Finding and Order (July 29, 2010) at 48- 49; *In re Duke Energy Ohio, Inc.*, Case No. 19-1593-GE-UNC, Finding and Order (Dec. 18, 2019) at ¶¶ 28, 35; *In re the Commission's Review of its Rules for Electrical Safety and Service Standards Contained in Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 17-1842- EL-ORD, Finding and Order (Feb. 26, 2020) at ¶ 162, Entry on Rehearing (Jan. 27, 2021) at ¶ 35.

¹² Order at ¶ 81.

¹³ *Id.* at 82.

¹⁴ OCC App. for Rehearing at 7-10.

experiences about 2/3 of customers prefer receiving these charges on the utility bill.¹⁵ Additionally, IGS, HomeServe USA Corp., and Pivotal provided hard data to demonstrate the great harm to customers and businesses that would be caused if the Commission implemented the proposed rule.¹⁶ Further, the East Ohio Gas Company d/b/a Dominion Energy Ohio and Vectren Energy Delivery of Ohio, Inc. stated that they are not aware of any abuses with this billing practice.¹⁷

Thus, with no demonstration that the proposed rule change was necessary and evidence of a strong consumer preference for this service, there is simply no justification to end this decade long practice as proposed by Staff. Therefore, the Commission properly declined to adopt Staff's proposed amendments and OCC's application for rehearing on this issue should be denied.

C. The price-to-compare statement adopted by the Commission serves as a reasonable and sufficient educational tool for customers.

In the Order, the Commission adopted, with modification, Staff's proposal to include a price-to-compare ("PTC") statement on residential and small commercial bills issued by the LDCs as an additional tool to inform customers of their ability to shop for natural gas.¹⁸ The statement, among other things, advises customers that the default

¹⁵ IGS Initial Comments at 2-3; Pivotal Initial Comments at 5.

¹⁶ IGS Initial at 1-9; HomeServe Initial 1-3; and Pivotal Initial at 1-2, 5.

¹⁷ VEDO/DEO Initial at 7.

¹⁸ Order at ¶ 69.

service rate varies each month, and recognizes that price is just one feature within an offer of many.¹⁹

For its third assignment of error, OCC asserts that the Commission erred by failing to require an LDC to include its current standard choice offer (“SSO”) or gas cost recovery (“GCR”) rate (collectively, “SSO/GCR”) on its monthly bills. According to OCC, “[a]dding the price-to-compare language without the rate removes any benefit gained by adding the price-to-compare message to the bill.”²⁰

This assignment of error should remove any doubt of OCC’s unshakeable bias for default service. By asserting that a competitively neutral, educational bill statement about shopping provides no benefit to customers simply because it does not include a reference to a stale default service rate, OCC demonstrates that its advocacy is not about customer education. Instead, OCC simply wishes to crown default service as the preferred product, ignoring the benefits of the competitive retail market to the detriment of customers it is supposed to represent.

Most harmful, OCC continues to ignore that the SCO changes every single month. For example, OCC argues that “the PUCO failed to require the actual current standard choice offer or gas cost recovery rate to be printed on bills.”²¹ However, “the actual current” SSO/GCR rate that OCC advocates to include on the bill would be neither actual

¹⁹ *Id.*

²⁰ OCC App. for Rehearing at 10-11.

²¹ *Id.* at 10.

nor current. The rate provided would be the price from a previous month and have no bearing on future prices. Therefore, the SCO/GCR rate provides a misleading metric for purposes of comparing offers, and the Commission properly declined to include it on customer bills.

D. The Commission properly declined to adopt a customer block.

In the Order, the Commission found that the adding a customer block was unnecessary because there are already safeguards in place to prevent CRNGS provider abuses in Ohio Adm.Code Chapters 4901:1-13 and 4901:1-29.²² The Commission held that this strikes “a suitable balance between protecting vulnerable customer populations and allowing for fair competition.”²³

In its final assignment of error, OCC challenges the Commission’s decision to decline to adopt the creation of a customer block mechanism on gas accounts.²⁴ OCC disagrees with the Commission’s finding that current customer protections are adequate.²⁵

However, OCC simply fails to raise any new or compelling arguments regarding this issue. OCC does not provide any explanation as to its belief that the consumer protections relied upon by the Commission in the Order are insufficient. Further, OCC continues to ignore the concerns raised by IGS and other parties regarding the practical

²² Order at ¶ 118.

²³ *Id.*

²⁴ OCC App. for Rehearing at 11-12.

²⁵ *Id.*

implementation of a customer block, such as the procedure for removing the block, which could lead to harm and confusion for those customers exercising their right to shop.²⁶

Therefore, the Commission should deny OCC's application for rehearing on this issue.

III. CONCLUSION

For the foregoing reasons, IGS recommends that the Commission deny OCC's Application for Rehearing in its entirety.

Respectfully submitted,

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²⁶ Order at ¶ 175.

CERTIFICATE OF SERVICE

I hereby certify that a service copy of the foregoing *Memorandum Contra the Application for Rehearing of the Office of the Ohio Consumers' Counsel by Interstate Gas Supply, Inc.* was sent by, or on behalf of, the undersigned counsel to the following parties of record on April 5, 2020, via electronic transmission.

/s/ Bethany Allen
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Summary: Memorandum Memorandum Contra the Application for Rehearing of the Office of the Ohio Consumers' Counsel by Interstate Gas Supply, Inc. electronically filed by Bethany Allen on behalf of Interstate Gas Supply, Inc.