

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV
2008 SEP 10 PM 5:05
PUCO

In the Matter of the Commission's Review of :
Chapters 4901:1-17 and 4901:1-18 and :
Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, :
4901:1-15-17, 4901:1-21-14, and 4901:1-29-12 :
of the Ohio Administrative Code. :

Case No. 08-723-AU-ORD

INITIAL COMMENTS
OF
CONSTITUTION GAS TRANSPORT CO., INC.,
FORAKER GAS COMPANY, INC.,
KNG ENERGY, INC.,
AND
THE SWICKARD GAS COMPANY

By its entry in this docket of June 25, 2008, the Commission requested comments from interested parties with respect to staff-proposed revisions to the Commission's rules governing the credit requirements and disconnection procedures of natural gas companies, and certain other unrelated provisions of the Ohio Administrative Code ("OAC"). Constitution Gas Transport Co., Inc. ("Constitution"), Foraker Gas Company, Inc. ("Foraker"), KNG Energy, Inc. ("KNG"), and The Swickard Gas Company ("Swickard"), (collectively, the "Small LDCs"), are public utilities and natural gas companies within the definitions of Sections 4905.02 and 4905.03(A)(6), Revised Code, and, as such, will be subject to the rules ultimately adopted by the Commission in this proceeding. The Small LDCs hereby submit the following initial comments pursuant to the revised schedule set forth in the attorney examiner's August 1, 2008 entry in this docket.¹

¹ The Small LDCs recognize that the Commission does not typically require participants in its rulemaking proceedings to file motions to intervene. However, the Small LDCs clearly have a real and substantial interest in this proceeding and otherwise satisfy the criteria for intervention set forth in Section 4903.221, Revised Code and Rule 4901-1-11, OAC. Thus, if the Commission determines that formal intervention is necessary as a condition of participating in this case, the Small LDCs request that they be granted leave to intervene.

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business
Technician JS Date Processed 9-11-08

Proposed Rule 4901:1-18-05, OAC:

Proposed Rule 4901:1-18-05, OAC, which would replace current Rule 4901:1-18-04, OAC, sets out the various payment arrangements that natural gas companies must make available to delinquent customers to permit them to avoid disconnection of service. Consistent with the current rule, proposed Rule 4901:1-18-05(A) provides the company with the discretion to accept a payment arrangement proposed by the delinquent customer, and identifies a number of considerations the company may take into account in determining whether to accept the customer-proposed arrangement. If the customer fails to propose a payment arrangement acceptable to the company, the company must then, pursuant to proposed Rule 4901:1-18-05(B), advise the customer of the availability of the specific payment plans set forth therein, as well as of the availability of the percentage of income payment plan ("PIPP") program. Proposed Rule 4901:1-18-05(B)(1) retains the current "one-sixth" plan, while proposed subparagraphs (B)(2) and (B)(3) add two new options that must be offered, a "modified one-sixth plan" and a "one-twelfth plan." In addition, proposed Rule 4901:1-18-05(B)(4), tweaks the existing "one-third" plan by making it available only during the winter heating season, and adding the proviso that the customer must be offered the opportunity to elect one of the other three plans if there is an outstanding balance remaining after the final "one-third" plan payment.

Although the Small LDCs have no objection to the revised payment plan options proposed by staff, they do have a concern that, under both the current and proposed rule, there is no specific recognition of the right of the company to propose other options in the event the payment arrangement proposed by the customer is not acceptable. This omission is significant in view of the reality of the way in which these small companies deal with delinquent customers. As the Commission knows from the filings made by Foraker, KNG, and Swickard in response to

response to the disconnection rules adopted in Case No. 03-888-AU-ORD, none of these companies has, nor have they ever had, any PIPP customers. *See* Case No. 03-888-AU-ORD, Entries dated June 8, 2005 and February 27, 2007. The same is true of Constitution, which so advised staff in the context of the staff's 2005 review of its bill format. Yet these companies rarely, if ever, find it necessary to disconnect customers for nonpayment, because they work with their customers to come up with payment arrangements that are actually more advantageous and/or attractive to the customers than either PIPP or the payment options mandated by the Commission's rule. However, neither the current nor the proposed rule appears to contemplate this alternative, notwithstanding that the Commission has publicly applauded the companies for their efforts in this regard. *Id.*

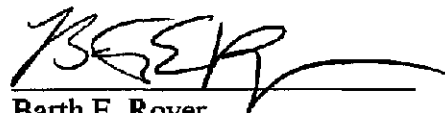
It is important that the rule confirms that these companies do, indeed, have the authority to tailor payment plans to meet the needs of individual customers. From the Small LDCs' perspective, it is far better to preserve service to delinquent customers by creating a mutually acceptable payment plan, rather than forcing customers into the PIPP program or one of the other plans specified in the rule. Although PIPP may work well for larger LDCs, the PIPP program poses a disproportionate administrative burden on small companies. In view of the small number of income-eligible customers involved, the Small LDCs would much prefer to keep customers on line by devising their own payment plans rather than establishing and administering a rider mechanism for recovering PIPP arrearages from their other customers. Clearly, this is in everyone's interest. Accordingly, the Small LDCs recommend that proposed Rule 4901:1-18-05 be revised by inserting the following as subparagraph (B)(5):

- (5) ANY OTHER PAYMENT ARRANGEMENT THE COMPANY, IN ITS DISCRETION, MAY ELECT TO PROPOSE.

It bears emphasis that this change would not alter the proposed Rule 4901:1-18-05(A) requirement that the company evaluate payment arrangements proposed by the customer, nor does it relieve the company from the proposed Rule 4901:1-18-05(B) obligation to advise the customer of the availability of PIPP and the specific payment plan options under subparagraphs (B)(1) through (B)(4). Rather, the addition of the subparagraph suggested above merely confirms that the company does have authority to craft other payment plans that may be better suited to an individual delinquent customer's needs and desires than PIPP or the other options identified in the rule.

The Small LDCs appreciate the opportunity to submit these comments, and urge the Commission to adopt the language set forth above in formulating the final version of the rules now under consideration.

Respectfully submitted,



Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927
(614) 228-0704 – Phone
(614) 228-0201 – Fax
BarthRoyer@aol.com – Email

Attorney for
Constitution Gas Transport Co., Inc.,
Foraker Gas Company,
KNG Energy, Inc.,
The Swickard Gas Company