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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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MEMORANDUM CONTRA THE CONSUMER GROUPS' MOTION FOR
A COMMISSION-ORDERED INVESTIGATION

I. INTRODUCTION

The Ohio Gas Association ("OGA"), individually and on behalf of Columbia Gas of Ohio, Inc. ("COH"), Duke Energy Ohio, Inc. ("DE-Ohio"), The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO"), and Vectren Energy Delivery of Ohio, Inc. ("VEDO") (collectively "the Companies") hereby file their Memorandum Contra the Motion for a Commission-Ordered Investigation filed in the above-captioned case by the self-styled Consumer Groups on September 10th, 2008.

II. ARGUMENT

OGA and the Companies join in the September 18, 2008 Memorandum Contra filed by AEP Ohio to the Consumer Groups' motion for investigation. As noted by AEP Ohio, the Consumer Groups' motion seeks to transform this rulemaking into a full-blown adversarial hearing. As discussed below, the Consumer Groups have stated neither legal nor factual grounds justifying their request. Their motion should therefore be denied, and these proceedings should continue as scheduled.

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A. The Consumer Groups Have Not Stated Reasonable Grounds for a Complaint.

The Consumer Groups have not articulated legal grounds for granting their motion. They opted to file their motion under R.C. 4905.26. (*See* Mot., p. 2 (basing their motion on the Commission’s authority to “initiate investigations pursuant to R.C. 4905.26”).) Nevertheless, they misstate the legal standard applicable to their request. As they see it, “the standard is only whether reasonable grounds have been stated.” (Memo., p. 6 (citing R.C. 4905.26).) This is incorrect and begs the question—reasonable grounds for what? Contrary to the Consumer Groups’ implication, the test is not “reasonable grounds to grant the motion.” Rather, under R.C. 4905.26, the Commission must find “reasonable grounds” to believe that some aspect of the service provided by the Companies “is in any respect unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law.” Only “if” such grounds are stated “shall” “the commission . . . fix a time for hearing.” R.C. 4905.26.

The Consumer Groups have not stated reasonable grounds for complaint. They assert only that an evidentiary hearing and full discovery will aid their fact-finding efforts. The problem is that the Consumer Groups do not even allege—much less demonstrate—that any public utility’s rates, fares, or practices, are problematic or unlawful in any respect (nor could they). Thus, the Consumer Groups fail to articulate the necessary grounds for initiating a complaint proceeding under R.C. 4905.26.¹

¹ The Companies recognize that the Commission has ordered investigations in past dockets under the supervisory authority provided R.C. 4905.04, 4905.05, and 4905.06. In contesting the Consumer Groups’ motion, the Companies do not contest the Commission’s general jurisdiction under these statutes. For the reasons stated in section II.B of this brief, however, such an investigation has not been shown to be necessary here.

B. The Consumer Groups Have Not Justified the Enormous Burden that Would Be Imposed were this Rulemaking Transformed into a Fully Litigated Hearing.

What the Consumer Groups seek would impose an enormous burden on the Commission and the parties who appear before it. An evidentiary hearing potentially involving over thirty parties, reams of written discovery, weeks of depositions, local public hearings statewide, and consequent commitments of time, resources, and personnel at every step should not be granted lightly. A party requesting such burdensome procedures should first demonstrate that they are necessary.

The Consumer Groups, however, do not explain why this enormous commitment of time and resources is necessary to evaluate the proposed rules. True, they assert that this proceeding “is intensely fact-based” (Memo., p. 1), that “the underlying facts are critically important” (*id.*, p. 2), and that they are “at an extreme disadvantage in proposing amendments to the rules” without discovery and a hearing (*id.*, pp. 5–6). Yet they do not provide in their motion a single example of being hindered by a lack of factual information in making their comment on the rules. Indeed, their initial comments consumed over 150 pages—clearly they were not hamstrung in forming opinions on the rules. In short, the Consumer Groups do not specifically explain which facts are required to comment on which rules, offering instead only conclusory assertions.

Their request to transform this rulemaking into a litigated hearing is all the more unwarranted in light of the fact that the Consumer Groups’ lead party (OCC) already possesses a great deal of information regarding the Companies’ policies, procedures, and other data related to the PIPP program. First, detailed information and data regarding the PIPP program and the Companies’ credit and collection activities are provided as a matter of course every month to OCC in the Ohio Statistics on Customer Accounts Receivable report (*i.e.*, the OSCAR report). *See* Entry, Appx. B (June 25, 2008). Additionally, in the course of the various ongoing rate

proceedings, OCC submitted substantial amounts of written discovery regarding the PIPP program and LDC credit and collection policies and procedures.² Moreover, the entry calling for comments posed a number of factual questions to utilities, and these have been answered to the best of the Companies' abilities. *See* Entry, Appx. A (June 25, 2008). OCC has also in the past submitted informal information requests to some of the Companies, and the Companies have provided the requested information.³

Given the array of information already at the Consumer Groups' fingertips, and their failure to explain exactly what information is needed, the Consumer Groups fall well short of justifying a hearing in this case.


If the Commission were to determine that further inquiries were necessary (and the Consumer Groups have not shown this), the Companies agree with the position stated in the Memorandum Contra filed by AEP Ohio on September 18, 2008: An informal, "round table" discussion process would provide the benefits sought by the Consumer Groups, while greatly reducing the burdens associated with an adversarial proceeding.

III. CONCLUSION

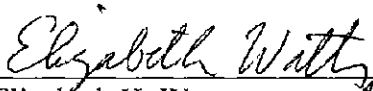
For the reasons discussed above, the Companies respectfully request that the Commission deny the Consumer Groups' Motion.

² DEO, for example, responded to well over one hundred written discovery requests from OCC concerning the PIPP program and its credit and collection policies in Case No. 07-829-GA-AIR.

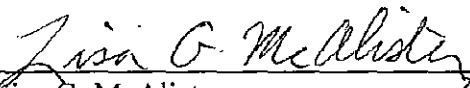
³ *See, e.g.,* Attachment 1 (DEO Response to OCC Information Request, dated Jan. 29, 2008).


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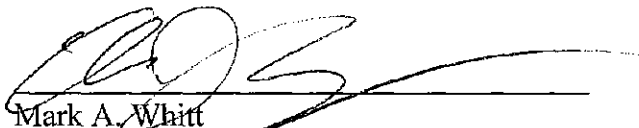

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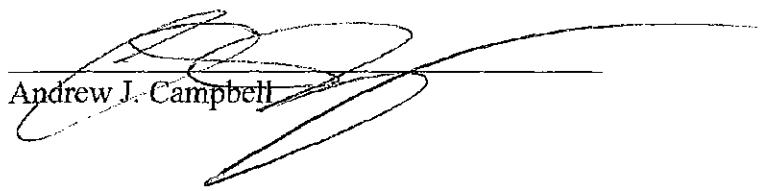
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Memorandum Contra the Motion for Commission-Ordered Investigation by the Consumer Groups was delivered to the following persons by electronic mail this 25th day of September, 2008.



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OCC Information Request

Credit Related Questions

1. *How does your Company inform customers about the options that are available to avoid paying a security deposit?*

- When a security deposit is required, the Customer Service Center agent will advise the customer of the deposit amount and alternatives to a deposit such as a guarantor.
- Deposit and guarantor information appear on non-PIPP shut-off notices.
- This information is detailed in the booklet *Your Rights and Responsibilities as a Dominion East Ohio Customer*.
- Deposit information is listed on the Dominion web site at www.dom.com

Does the Company have scripts or other written materials that are used by Company personnel to explain the alternatives to a deposit?

Yes.

2. *If a security deposit is required, does your Company bill the deposit in multiple installments?*

- A deposit is billed in one installment and due in 10 days. However, we will work with the customer on a case-by-case basis.
- If the customer is disconnected for non-payment or is determined to be a credit risk under OAC 4901:1-17-04 Re-establishment of Credit (residential) or under OAC 4901:1-13-08 (A) (small commercial gas service), a deposit is requested and due in full prior to reconnection.

3. *Please describe all situations where your Company would request a customer's social security number.*

- The Social Security number is part of the new customer application; however, it is not required for connection of service. If the customer refuses to provide a Social Security Number, a deposit is required.
- Once the Social Security number is obtained, the last four digits are requested to verify the party during a customer service contact.

How does your Company protect social security numbers against inadvertent disclosure?

- Social security numbers are 'masked' in the Customer Care System (CCS) once they are obtained from the customer. Access is then limited to key users assigned to a special security category. Users with this special security clearance have a specific business need to view the protected personal information.
- Customer service center employees receive training and periodic reminders in reference to safeguarding customer information and privacy protocol.

4. *Does your Company use credit scores to determine whether a deposit is necessary?*

CREDIT SCORES ARE NOT OBTAINED FOR OHIO RESIDENTIAL CUSTOMERS AND ARE NOT A CRITERION IN THE RESIDENTIAL DEPOSIT DETERMINATION. A CREDIT SCORE MAY BE OBTAINED FOR LARGE COMMERCIAL USERS, BUT IT IS NOT THE SOLE CRITERION FOR DEPOSIT DETERMINATION.

What credit score necessitates a deposit?

N/A (See above).

5. *Does your Company sell uncollectible residential debt to third-party collection agencies?*

Yes.

If so, how long are the accounts aged before being sold to a collection agency? When debt is sold, the absolute minimum is 19 days after an account is final billed.

Does your Company require the debt to be settled with the third party collection agency before service will again be initiated?

No.

6. *When are residential customers required to prove identity to your Company and what methods are used to prove identity?*

Customers are required to provide positive identity in the following instances:

- *Multiple Requests (for gas service at the same premise)*
- *Fraud*
- *ID Theft*
- *Positive ID Results*
- *Billed Under 18 Yrs Old*

Acceptable forms of ID include:

Birth certificate

Drivers license

Employee information (i.e. payroll stub)

Employee ID

Green card

Marriage license

Military ID

Passport

Proof of citizenship

Voter registration

W-2 form

Welfare ID

Under what circumstances are customers required to provide affidavits or other legal documents to prove identity?

At a minimum, an affidavit from the Federal Trade Commission's website is required for all ID Theft claims.

7. *Are there locations in close proximity to the customers you serve where customers can apply in-person for service?*

No. All requests for service are taken by phone.

Disconnection Related Questions

1. *If your Company has a temperature-based policy for suspending disconnections, is the temperature measured at a specific time of day at specific location, or in the counties/ locations where service is being provided?*

Temperatures are monitored in Ohio; however, temperature is not the sole criterion that is used. There may be instances of other extreme weather conditions where the company may determine such suspensions are warranted.

If your Company has a policy for suspending disconnections during hot weather, how is the policy implemented and how many days has the policy been used to prevent service disconnections in the last two years?

NA.

2. *Does your Company have a policy for the types of medical equipment that qualify as life-support equipment?*

No.

Please outline the procedures that are used to disconnect customers that are certified on life-support equipment.

NA.

What type of payment plans are offered to customers on life-support equipment and how many customers have been disconnected in the last five years who were on life-support?

NA.

3. *Does your Company adjust due dates for residential customer bills? If so, please explain how the adjustment works and how customers are informed about this billing option.*

Bill due dates are set at 14 days after bill preparation as mandated by the tariff.

However, customers who participate in Bank Draft or Ebill options may choose a range of dates for the bill to be submitted to their financial institution for payment.

4. *Please explain any measures your Company takes to proactively help customers avoid disconnection for non-payment. Does your Company make direct contact with customers prior to disconnection? Does your Company have policies for assessing customer specific circumstances related to non-payment prior to shutting off service?*

- *The residential disconnection notice includes information on payment plans, medical certificates and other methods the company provides to avoid disconnection of service.*
- *During the non-heating season, DEO may use up to three (3) customer contact calls to remind the customer that they have a past due amount.*
- *During the heating season, DEO complies with the additional 10-day notice requirement by a telephone contact to the customer.*
- *During the heating season, DEO includes the "Need Help with Your Heating Bills" informational insert with all residential bills that have a Reminder or Disconnection Notice.*
- *All of these methods encourage customers to contact DEO to work out payment arrangements prior to termination.*
- *When appropriate, agents may offer the customer a short-term extension (credit hold) to suspend credit activity.*
- *During the moratorium period, Dominion sends an additional letter that explains the winter moratorium rules and who to contact if the customer thinks they may be eligible.*

5. *Does your Company have policies related to offering non-PUCO-ordered payment plans based on customer-specific circumstances that have resulted in payments not being made? If so, please explain how these policies work.*

No. We can work with customers to set up a current plus plan with duration other than 6 or 12 months. These are, however, not a formal part of our policies.

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6. *Does your Company provide residential customers with disconnection notices that are separate from the bill?*

Yes. The disconnection notice is included as a separate page in the bill. During the heating season DEO also provides an additional 10-day notice in the form of an automated phone call. During the non-heating season, DEO may use up to three (3) courtesy calls to remind the customer of the past due amount.

7. *Does your Company work with local charities and social services agencies to provide a referral resource for customers that have been disconnected or are threatened with disconnection?*

Yes. Customer service agents have access to an on-line agency list that can be used to make customer referrals.

8. *Please describe all Company-sponsored initiatives that provide energy assistance to residential consumers including eligibility and amounts.*

- *EnergyShare is a Dominion sponsored fuel assistance program of last resort designed to help individuals and families in need pay any type of heating bill – gas, wood, oil, electricity, propane and kerosene. The applicant must live in the company's service territory, must have a termination notice, and must have exhausted all other state and federal fuel assistance resources. Seniors may apply without a shut-off notice. Grant amounts are usually set at \$175. Applicants must meet PIPP and HEAP income guidelines. The Salvation Army administers the program.*
- *PIPP Arrearage Crediting Program – Allows customers who no longer qualify for PIPP the opportunity to continue to pay the same PIPP amount paid while on PIPP for twelve (12) months before payments on the current bill must begin. As part of the PIPP Repayment Plan, the company provides the following benefits as of March 2004:*
 - *During the first 12 months, customers pay the same amount they paid while on PIPP. At the end of the 12th month, providing they have made the required payments in full and on time, Dominion East Ohio will credit one-third (33%) of the account balance they had at the start of the 12-month period.*
 - *During months 13-24, they pay either the current bill or budget amount. At the end of the 24th month, providing they have made the required payments in full and on time, Dominion will credit half (50%) of the total account balance.*
 - *Months 25 and beyond, they pay either the current bill or budget amount, plus up to \$20 extra to reduce the overdue balance. Dominion will match dollar-per-dollar the extra amount, up to \$20. At the end of the 36th month, providing they have made the required payments in full and on time, the company will credit the remaining balance.*

Please describe all Company-sponsored programs that help low-income customers reduce usage.

Dominion's Housewarming Program has been in effect for more than twenty years and is designed to assist customers with home energy improvements. The Cleveland Housing Network (CHN) administers the program for customers who meet PIPP and HEAP income guidelines. CHN works with neighborhood development and housing groups to provide weatherization measures such as furnace retrofits, caulking, weather-stripping, and insulation.

9. *Please explain the length of your billing cycle and the average number of days that customers are billed for service. If customers are billed for a longer than average period of time, does the company explain on the bill why the duration is longer? Does the Company offer any type of payment assistance where billing cycles are longer than average?*

- *Bill cycles range from 26 to 35 days.*
- *No explanation is provided*
- *Normal payment assistance rules apply*

10. Please provide a listing of the different methods in which your Company accepts customer payments.

Dominion accepts customer payments by the following methods:

- By mail
- By authorized walk-in payment agent
- Bank Draft
- By phone (electronic check, or credit/debit card)
- By Internet
- From agencies (Salvation Army, churches, HEAP)

What are the approximate per-transaction costs for accepting payments using each of the above methods?

- By mail - Free to customer
- By authorized walk-in payment agent - \$0.82 per transaction fee paid by customer
- By phone - Vendor fee of \$3.95 per transaction (electronic check or credit/debit card) paid by customer
- Bank draft – free to customer
- By Internet (enrolled in eBill)
 - Electronic check payment – no fee to customer
 - Credit/debit card – Vendor fee of \$3.95 per transaction paid by customer
- By Internet – online or PC Banking – No fee from Dominion
- By Internet - Vendor fee of \$3.95 per transaction (electronic check or credit/debit card) paid by customer

11. Does your Company offer locations where customers can pay in person without paying an additional charge?

No.

12. For customers that do not have checking accounts, what are the options available for customers to make payments?

- Dominion's authorized payment agents can accept payment by cash or money order.
- BillMatrix, Dominion's payment vendor, also accepts payment by credit card. (Fees apply)
- Money orders can also be mailed to the company.

13. Please describe the criteria used by your Company to select authorized payment agents?

Location, hours, accessibility, and type of business are all factors for consideration in the selection process.

Do customers have 24/7 access to information about where they can make payments to authorized agents?

Yes, via Internet and phone.

Do payments that are made to authorized agents post immediately to the account?
No.

If not, when do payments made by authorized agents post to the account?

Payments made before 4:30 PM post nightly. Payments made after 4:30 PM post the next business day.

- 14. If your Company accepts credit card payments, how many credit card payments are made on average each month?*

The average number of residential and commercial credit card payments is 14,200 per month.

Are customers charged a fee by the Company or its agent for making credit card payments and what are the charges?

Yes. The fee charged by the vendor for credit card payments is \$3.95 per transaction.

What is the average number of payments made by residential customers on a monthly basis using credit cards?

The average number of residential credit card payments is 12,800 per month.

For each of the last twelve months, how many credit card payments were made by residential customers that were disconnected or were threatened with disconnection?

An average of 5,875 residential customers per month paying with credit cards faced disconnection.

- 15. Does your Company assess late payment charges on unpaid balances for residential accounts that are part of a payment plan? Does your company limit the application of late payment charges to those residential accounts that have a history of late payment? Are late payment charges assessed on PIPP accounts or account balances that are part of an extended payment plan?*

Dominion East Ohio - West Ohio Division

All LPC questions are answered based on policies only for West Ohio division customers in accordance with PUCO-approved tariffed charges.

- Does your Company assess late payment charges on unpaid balances for residential accounts that are part of a payment plan? Yes.*
- Does your company limit the application of late payment charges to those residential accounts that have a history of late payment? No, the late payment charges are assessed on any unpaid balance.*
- Are late payment charges assessed on PIPP accounts or account balances that are part of an extended payment plan? Yes.*
- What are the total revenues collected by your company in late payment charges for the last 12 months?*

The total amount collected in late payment charges in 2007 was \$104,807.93.

- What was the total expense your Company actually incurred because of late payments?*

Please see the Company's application in Case No. 07-829-GA-AIR for the proposed changes to the late payment provisions in its tariff.

16. *Can your Company contact field personnel that are dispatched to perform disconnections for non-payment to stop a disconnection? If not, how do field personnel know if payment was made prior to the disconnection?*

- *Our billing system runs a batch program after payment processing is completed to cancel pending disconnect orders for accounts where payments or memo payments have been received. The memo payment process verifies payment information from vendors regarding payments made after the batch cutoff time.*
- *On the day a disconnection is scheduled to be worked, if the customer makes a payment prior to the field personnel's arrival at the premise, the Call Center representative can cancel the disconnect order in our CCS system; this will cancel the order on the field personnel's Mobile Unit within a matter of minutes.*

17. *During the months of the year in which the PUCO's Winter Reconnection Order is in effect, does your Company require up-front payment of the reconnection fee or will this charge be billed to the customer?*

The reconnection fee is billed on the next monthly bill.

18. *Are there any situations where residential customers are served on commercial tariffs in your service territory? If so, does the Company apply the consumer protections in O.A.C. 4901:1-17 and O.A.C. 4901:1-18 to these accounts? Outside of the Transportation Services for Schools (TSS) Rate Schedule, residential accounts can be on any of the remaining Company Rate Schedules. Credit activity and policy are based on the customer's class (i.e. residential, small commercial, commercial or industrial) and not rate schedule.*

19. *Please describe the payment plans that you offer to residential customers.*

Available residential plans include the short-term extension when customers need a few more days to pay the full arrears and the 2 to 6 month plus current payment plan. If the customer qualifies, he/she may take advantage of PIPP. We also offer the 1/3 option when customers are unable to pay during the heating season of November 1 – April 15.

Please describe how your Company determines if customers have the ability to pay the bill.

When a customer contacts the company and indicates an inability to pay the bill, the Customer Relations Specialist will advise the customer of the available payment plans.

What types of payment plans are provided for customers who are back billed, or sent an adjusted bill because of receiving an inaccurate estimated bill?

- *Customers back-billed for non-registering meters are offered a 12-month payment plan.*
- *If it is determined that the remote reading device is defective, we will not back bill the customer for any non-recording consumption; therefore, extended payment arrangements are not needed.*
- *If the customer is back-billed due to consecutive estimates, the customer is offered a 12-month payment plan*

20. Does your Company provide specialized payment plans for customers who qualify for HEAP assistance but not PIPP?

Available payment plans for any residential customer include the short-term extension when customers need a few more days to pay the full arrears and the 2 to 6 month plus current payment plan. We also offer the 1/3 option when customers are unable to pay during the heating season of November 1 – April 15.