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BEFORE

Case No. 08-723-AU-ORD

REPLY COMMENTS OF THE OHIO GAS COMPANY

Attorney for The Ohio Gas Company

**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.)

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**REPLY COMMENTS OF
THE OHIO GAS COMPANY**

I. INTRODUCTION

On June 25, 2008, the Public Utilities Commission of Ohio ("Commission") issued an Entry requesting comments on Commission Staff's ("Staff") proposed revisions to the Commission's rules and appendices related to credit and collections, extended payment programs and low-income payment programs, namely the percentage of income payment plan ("PIPP") program. The proposed rules also suggest the elimination of payday lenders as authorized payment centers for utility bills. Additionally, Staff conducted a workshop on July 8, 2008 to allow interested stakeholders to ask questions to clarify the proposed rule amendments and appendices. Initial comments were filed on September 10, 2008. Ohio Gas Company ("Ohio Gas" or "Company")¹ respectfully submits its reply comments for the Commission's review.

¹ As noted in initial comments, Ohio Gas is a natural gas company providing service to approximately 45,000 customers in Northwest Ohio, nearly all of which are served through Community Energy Partnership ("CEP") program arrangements. Ohio Gas currently has approximately 460 active PIPP accounts on its system.

II. General Reply Comments

The initial remarks of the commenters representing residential consumers underscores the diligence that the Commission should employ in very carefully weighing the financial burdens placed on gas or natural gas companies in complying with Staff's proposed rule modifications or changes proposed by residential customer advocates. Specifically, the Commission should consider the ramifications of mandates that would force gas or natural gas companies to make large investments in technology or dedicate greater personnel resources in order to comply with the regulations. The Commission must strike a reasonable balance between the interests of the residential customers needing specialized payment programs, the residential and non-residential customers paying for those programs, and the gas or natural gas companies who must administer and implement the programs.

The Commission should be especially cognizant of the significant costs these proposed changes would impose upon small gas or natural gas companies and their customers inasmuch as such modifications would result in a larger cost per customer for small gas or natural gas companies than for larger companies. Consistent with its Initial Comments, Ohio Gas respectfully asks the Commission to grant small gas or natural gas companies a permanent waiver from any rules that would require the addition of technological capability or reprogramming of existing computerized billing systems, as well as any rules that would unduly burden the credit and/or disconnection functions of gas or natural gas companies.

If the Commission does not grant small gas and natural gas companies a permanent waiver from the proposed rule modifications, the Commission should allow

adequate time to implement the software and other changes necessary to implement the proposed rule modifications. Finally, the Commission should ensure that utilities are entitled to full cost recovery of the costs incurred to comply with the modified rules in these Chapters as well as compiling and filing the data in the Ohio Statistics on Customer Accounts Receivable ("OSCAR") Report.

III. Specific Reply Comments

A. Rule 4901:1-18-14(C) – Energy Efficiency Arrearage Credits

Staff has proposed a new rule granting PIPP customers as well as Graduate PIPP customers an arrearage credit for reducing energy usage by 10 percent in the previous 12 month period. The Consumer Groups² urge the Commission to modify the proposed rule to only require a four percent usage reduction and to apply the credit every six months as a PIPP payment decrease instead of a credit to the customer's arrearages.³

While Staff's proposed rule would require extensive and costly computer programming changes, such as integrating weather data into Ohio Gas' billing system, the Consumer Groups' suggested changes would impose an even greater burden to Ohio Gas in administering this aspect of the proposed changes to the PIPP program. The Consumer Groups' change would multiply Ohio Gas' workload associated with this incentive program fourfold (as compared to Staff's proposal). And, from a practical

² The "Consumer Groups" consist of the Office of the Ohio Consumer's Counsel ("OCC"), the Appalachian People's Action Coalition, Cleveland Housing Network, Empowerment Center of Greater Cleveland, The Neighborhood Environmental Coalition, Consumers for Fair Utility Rates, United Clevelanders Against Poverty, Supports to Encourage Low-Income Families, Cleveland Tenants' Association, Citizens United for Action, May Dugan Center, Pro-Seniors, Harcatus Tri-County Community Action Organization, Ohio Interfaith Power and Light, The Ohio Farm Bureau Federation, The Ohio Farmers' Union, and the Edgemont Neighborhood Coalition.

³ Initial Comments of Consumer Groups at 41-43, 123-124.

standpoint, PIPP customers move much more often than non-PIPP customers and trying to match credits to customers more frequently would compound the difficulty of this task.

B. Rule 4901:1-18-05(B) – Extended Payment Plans

Staff's proposed rule would add a modified one-sixth plan as well as a one-twelfth plan to the extended payment plan options that must be presented to customers. The Consumer Groups encourage the Commission to require utilities to attempt to customize a payment plan before resorting to the standard payment plans as well as suggest language mandating that a customer's ability to pay be considered when establishing a payment plan.⁴

Along with the standard extended payment plans, Ohio Gas offers each customer requesting an alternative payment plan its "Ohio Gas Plan." The Ohio Gas Plan is a flexible tool that affords Ohio Gas the ability to work with customers to arrive at a mutually agreeable payment arrangement. Ohio Gas already attempts to find a realistic personalized payment plan when the standardized payment plans are not feasible. However, the Ohio Gas Plan is offered concurrent with the other standardized payment plans. Presenting all of the options together informs customers of all of the options up front and the Commission should not assume that a customized payment plan will always be more advantageous for a customer or easier to fulfill than one of the standard plans. Ohio Gas would like to continue using the same process currently in place, which Ohio Gas believes is superior to that suggested by the Consumer Groups, and therefore urges the Commission to decline to adopt the Consumer Groups' proposal.

⁴ Id. at 43-48, 86-88.

C. Customer Disconnection Bill of Rights

The Consumer Groups introduced a brand new “Customer Disconnection Bill of Rights” for distribution to new residential consumers and to all residential consumers at the beginning of the winter heating season.⁵ The Customer Disconnection Bill of Rights would include information on payment arrangements, disconnection of service, and reconnection of service.

Most of the information included in the Consumer Groups’ proposed Customer Disconnection Bill of Rights is already included in the new customer information packet distributed to all new Ohio Gas residential customers. Ohio Gas does not believe that the value in sending duplicative information outweighs the cost of a separate mailing that would be required as Ohio Gas cannot circulate the Customer Disconnection Bill of Rights with its monthly bills.⁶

D. OSCAR Report

The Consumer Groups’ call for the Commission to levy penalties for not timely filing OSCAR Reports and assert that the OSCAR Reports should be publicly filed.⁷ The Consumer Groups also recommend a workshop to come to agreement on the specific definitions in each matrix in order to come to a “clear understanding for each of the data metrics and how this data is used for analysis of the effectiveness of the

⁵ Id. at 49-53.

⁶ A separate mailing would also be required to inform customers of Ohio Gas’ medical certification program, as Consumer Groups have suggested the Commission mandate. See Initial Comments of Consumer Groups at 87 [Rule 4901:1-18-05(F)].

⁷ Id. at 57-58.

programs.”⁸ Finally, the Consumer Groups suggest adding over 40 columns to Staff’s proposed revised OSCAR Report.⁹

The Commission already possesses the power¹⁰ to assess forfeitures against utilities not complying with its rules and an addition to the rules saying as much is not necessary. Further, Ohio Gas again presses the Commission to consider the additional time and technological expense implications associated with the expansion of the OSCAR Report, whether to the detail suggested by Staff or by the Consumer Groups. As even the Consumer Groups acknowledge, the Commission has not conveyed the usefulness of this data in analyzing these programs and the value of expanding this data collection effort is unclear. For these reasons, Ohio Gas requests that the Commission reject the Consumer Groups’ proposal to increase the amount of perhaps useless data.

E. Authorized Payment Agents

The Consumer Groups encourage the Commission to ensure that utilities have “ample company-owned” payment centers or agreements with authorized agents for customers to pay their bills and opine that utilities should absorb the cost for acceptance of payments regardless of whether the payment is made to a company-owned payment center or to an authorized agent.¹¹ Under the Consumer Groups’ proposal, utilities

⁸ Id. at 57.

⁹ Column 1.04, as proposed by the Consumer Groups, would gather data on the “number of customers on life support.” This requirement, if adopted, should be changed to recognize that the utility can only report the number of customers on life support for which it has received the proper medical certification form. Utilities cannot be forced to canvass their territories to identify all customers who are on life support.

¹⁰ Section 4905.54, Revised Code.

¹¹ Initial Comments of Consumer Groups at 58-59.

would also be forced to pick up the tab for costs incurred to accept payments electronically or via the telephone.

Ohio Gas strongly opposes the Consumer Groups' proposal. Ohio Gas currently has no company-owned payment centers and does not contract with authorized payment centers. Ohio Gas discontinued use of authorized payment agents because of the persistent tardiness of those authorized agents in remitting utility payments to Ohio Gas. The Consumer Groups provide no citation to statewide customer demand for such services and give no rationale for why a customer choosing a payment method alternative to the U.S. Mail should not bear those charges. Further, such a mandate would be especially onerous on those small gas or natural gas companies such as Ohio Gas that do not currently offer these payment options.

F. Rule 4901:1-18-01(C) – Definitions

Staff proposes a new definition in this section, adding "bona fide dispute" to the list of definitions in order to add clarity to the Commission's rule related to insufficient reasons for refusing service or disconnecting service. Staff's proposed definition of "bona fide dispute" is "a complaint registered with the commission's call center or a formal complaint filed with the commissions docketing division." The Consumer Groups recommend adding a complaint registered with OCC's call center to the definition of bona fide dispute.¹²

The Commission should not include OCC in the definition of bona fide dispute. The Commission, not OCC, has the statutory authority to resolve complaints by consumers and the addition of this language might confuse customers into thinking that OCC has the ability to resolve their problems. OCC should not be given the discretion

¹² Id. at 78.

to decide what inquiries to its call center constitute a complaint about service and therefore prevent a utility from refusing to serve or disconnect a customer.¹³ OCC does not currently have this authority and the Commission does not have the statutory authority to delegate this authority to OCC.

G. Rule 4901:1-18-02 (F) – General Provisions

Consumer Groups propose a new paragraph explicitly stating that a utility's tariffs cannot relieve the utility of its duties or responsibilities prescribed by the Commission's rules.¹⁴ Consumer Groups' recommendation seems to ignore the fact that the Commission has the authority to waive its own rules. Surely, if the Commission approves a tariff that is different from the Commission's rules, it is implicitly waiving those rules. Moreover, because the utility may have been granted a waiver from a particular rule, including Consumer Groups' recommendation may cause customer confusion and could simply be inapplicable at times. Accordingly, Ohio Gas urges the Commission to reject this proposal. However, if the Commission introduces this provision into the rule, Ohio Gas asks the Commission to include language recognizing the above described possibilities and to note that this rule is not applicable in those circumstances.

H. Rule 4901:1-18-03(F) – Reasons for Disconnecting Residential Electric, Gas, or Natural Gas Service

The Commission's current rules permit utilities to disconnect service to customers for repairs without notice, but do require notice to customers for

¹³ The Consumer Groups have requested that OCC's contact information be added to virtually every piece of information sent to residential customers. Ohio Gas objects to all other instances in which the Consumer Groups propose to insert OCC's name or contact information into the proposed rules. See, for example, Initial Comments of Consumer Groups at 76, 99, and 119.

¹⁴ *Id.* at 82.

maintenance-related service disruptions lasting longer than six hours.¹⁵ Consumer Groups encourage the Commission to change this rule to require 24 hour notice to customers who will be interrupted for any length of time for scheduled maintenance.¹⁶

Ohio Gas opposes the Consumer Groups' suggestion. Although as a general matter Ohio Gas endeavors to give customers notice when doing any scheduled maintenance, it would be impractical to impose such a restrictive mandate in all circumstances. Ohio Gas believes the rule should be retained in its current form.

I. Rule 4901:1-18-06(C)(3)(g) – Disconnection Procedures for Electric, Gas, and Natural Gas Utilities

Staff's proposed rule would require an electric, gas, or natural gas utility to restore service on the same day for any customer who provides a medical certification form by 3:30 p.m. on that day. Consumer Groups propose to revise this language to read "Once the certification is received, the utility company shall restore the customer's service within the same day."¹⁷ Ohio Gas does not object to this change so long as the proposed language makes clear that the certification must be received during normal business hours for same day reconnection.

J. Rule 4901:1-18-08(M) – Landlord/Tenant Provisions

Consumer Groups propose a new paragraph that would impute a rebuttable presumption that a utility is aware that residential tenants reside at a premise to be disconnected when the customer requesting disconnection has a different mailing address than the address where service will be disconnected.¹⁸ Consumer Groups

¹⁵ Section 4901:1-18-02(H), Ohio Administrative Code.

¹⁶ Initial Comments of Consumer Groups at 84.

¹⁷ Id. at 97.

¹⁸ Id. at 110-111.

reason that doing so will reduce unlawful disconnections as well as “clarify” what reasonable efforts must be undertaken to determine the status of a customer/consumer as either a property owner, landlord, agent of a property owner, or tenant.

The Commission should not adopt the Consumer Groups’ suggested language. The Consumer Groups’ proposed addition does not “clarify” Staff’s proposed language but, rather, negates the reasonable efforts provision of the proposed rule. The Consumer Groups’ modifications would also aggravate the problem identified by many commenters regarding Staff’s notice of disconnection proposal as applied to renters in single-occupancy dwellings.¹⁹

K. Rule 4901:1-18-15(H) – General PIPP Provisions

Consumer Groups propose a new paragraph that would require the utility to provide each PIPP customer with an annual statement of the PIPP customer’s account.²⁰ Such an undertaking would involve yet another separate mailing to customers. Further, much of the information the Consumer Groups ask to be included in the annual reports are already included on PIPP customers’ bills. For example, usage, arrearage, and account balance information prints on each monthly billing. Further, Consumer Groups do not acknowledge the information technology costs that would be incurred to produce the statements. More importantly, since PIPP customers’ payments are fixed, any incremental costs of serving PIPP customers imposes additional cost responsibility on other customers. As Consumer Groups have not demonstrated that the information would be useful or that there is a customer demand,

¹⁹ See, for example, Initial Comments of Duke Energy Ohio at 16-17 [referencing proposed Rule 4901:1-18-08(A)].

²⁰ Initial Comments of Consumer Groups at 130.

Ohio Gas requests that the Commission reject the suggestion to provide PIPP customers with duplicative information.

IV. CONCLUSION

Ohio Gas appreciates the opportunity to make these comments and respectfully urges the Commission to consider and adopt the recommendations of Ohio Gas.

Respectfully submitted,



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