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**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Commission's )  
Review of Chapters 4901:1-17 and ) Case No. 08-723-AU-ORD  
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. )

**APPLICATION FOR REHEARING OF**  
**EASTERN NATURAL GAS COMPANY**  
**PIKE NATURAL GAS COMPANY AND**  
**SOUTHEASTERN NATURAL GAS COMPANY**

Pursuant to Section 4903.10, Revised Code and Rule 4901-1-35 of the Ohio Administrative Code, Eastern Natural Gas Company ("Eastern"), Pike Natural Gas Company ("Pike"), and Southeastern Natural Gas Company ("Southeastern") (collectively "Clearfield") respectfully submit this Application for Rehearing from the December 17, 2008 Finding and Order in this case. Clearfield respectfully submits that the Commission unreasonably and unlawfully erred in three respects in adopting rules in this case:

- 1) The Commission at pages 51-52 of its December 17, 2008 Finding and Order, unreasonably and unlawfully erred in limiting the waiver of the requirements of adopted Rules 4901:1-18-12 through 4901:1-18-17 to those small natural gas companies who do not have a PIPP rider;
- 2) The Commission unreasonably and unlawfully failed in its December 17, 2008 Finding and Order to address the issue of cost implementation or the recovery of such costs associated with the PIPP program or the graduate PIPP program as well as associated administrative costs. For the Clearfield companies, this will be a substantial amount and the

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Commission failed to address how the Clearfield companies will be able to recover such costs; and

3) If the Commission does not grant rehearing and permit the waiver of the requirements of the adopted Rules 4901:1-18-12 through 4901:1-18-17 to all small natural gas companies, then it is also unreasonable and unlawful for the Commission not to provide for a grace period for enforcement. Because of the scope, magnitude and complexity of these new rules, the Commission should provide at least a period of two years for small natural gas companies to comply with these new rules.

Clearfield respectfully requests that the Commission grant rehearing and issue modified rules as set forth in the Memorandum in Support below.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

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**I.     The Commission should not have limited a waiver from compliance from Rules 4901:1-18-12 through 4901:1-18-17 for small natural gas companies that do not have PIPP riders.**

At pages 51-52 of its December 17, 2008 Finding and Order, the Commission, in response to the comments of Clearfield, acknowledged that the costs to implement programming to bill for and retain detailed customer information may outweigh the benefits of the computer system upgrades for small natural gas companies with fewer customer over which to spread the costs. The Commission granted a waiver of the requirements of adopted Rules 4901:1-18-12 through 4901:1-18-17 for gas and natural gas utility companies. This waiver was limited to those gas and natural gas companies who have fewer that 15,000 customers and who do not have a PIPP rider.

Eastern, Pike, and Southeastern each have less than 15,000 customers; each has a PIPP rider. The fact that these companies, along with Glenwood Energy of Oxford, have a PIPP rider would appear to disqualify them from having the waiver apply to them.

In determining the scope of the waiver from compliance with the proposed Rules 4901:1-18-12 through 4901:1-18-17, the mere fact that a small natural gas company has a PIPP rider should not distinguish it from other small companies who do not happen to have a PIPP

rider. The costs of implementing upgrades to computer systems will not be less burdensome on a natural gas company merely because it has a PIPP rider. The fact that a natural gas company has less than 15,000 customers is what makes it difficult to comply with the Commission's newly adopted rules. Small natural gas companies with less than 15,000 customers typically are unable to obtain access to more sophisticated computer systems because they do not have the financial resources or staff. The fact that a company does or does not have a PIPP rider has no bearing on the ability of such companies to comply with the Commission's newly adopted rules.

Clearfield respectfully requests that the Commission grant rehearing and waive compliance from Rules 4901:1-18-12 through 4901:1-18-17 to those companies with 15,000 customers or less. Such a waiver would extend to all small natural gas companies and would provide relief from having to implement expensive upgrades to computer systems.

Clearfield respectfully requests that rehearing be granted.

**II. The Commission unreasonably and unlawfully failed to address the cost of implementation and the recovery of such costs.**

By adopting these new rules which allow for arrearage crediting and the imposition of additional administrative costs, Clearfield, as well as other small natural gas companies, will be faced with the prospect of incurring higher costs but receiving less revenues. Nowhere in the Finding and Order does the Commission provide any guidance as to whether or how these increased costs will be recovered. While this is a rulemaking case and not a rate increase case, Clearfield submits that the Commission cannot merely order upgrades to computer systems and require credits to customer arrearages without at least articulating how such costs and credits will be recovered. Such an attitude would hamstring a utility. See Elyria Tel. Co. v. Public Utilities Commission (1953) 158 Ohio St. 441, 447; 110 N.E. 2d 59, 63.

On rehearing, the Commission should provide some guidance as to if and how such costs and credits will be able to be recovered by small natural gas companies such as the Clearfield companies. Without addressing this important issue, the Commission's Finding and Order is unreasonable and unlawful.

**III. The Commission should provide for a grace period for enforcement of Rules 4901:1-18-12 through 4901:1-18-17 for smaller natural gas companies such as the Clearfield companies.**

As stated in its first ground for rehearing, Clearfield respectfully submits that the Commission should grant rehearing and exempt all small natural gas companies from Rules 4901:1-18-12 through 4901:1-18-17 of the Ohio Administrative Code regardless of whether or not they have a PIPP rider. However, if the Commission does not grant rehearing, at the very least, it should grant a grace period for enforcement. Compliance with these rules, given the scope, magnitude and complexity of the adopted rules, will require some additional time, especially for smaller natural gas companies. The Commission has, in the telecommunications industry, provided a grace period for enforcement of certain rules. Clearfield respectfully requests that the Commission apply the concept of a grace period of at least two years if the Commission does not waive the application of Rules 4901:1-18-12 through 4901:1-18-17 to small natural gas companies. Even this grace period may not be adequate to allow small natural gas companies to make the computer system revisions necessary to comply with the Commission's adopted rules. Clearfield asks that the Commission liberally construe the waiver provision found in Rule 4901:1-17-02(B)(3) of the Ohio Administrative Code where a small natural gas company needs additional time. Requiring compliance with these rules for the smaller natural gas companies at the same time as the larger companies is unreasonable and unlawful.

WHEREFORE, Eastern, Pike, and Southeastern respectfully request that the Commission grant rehearing on these grounds.

Respectfully submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP

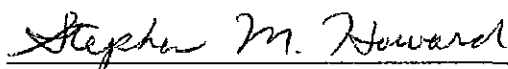
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## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Application for Rehearing was served upon the following parties of record by electronic mail where indicated or by U.S. first class mail this 16th day of January, 2009.



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