

FILE

**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
OF COLUMBIA GAS OF OHIO, INC.
TO THE APPLICATION FOR REHEARING BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL ET AL.**

Pursuant to Rule 4901-1-35 of the Ohio Administrative Code, Columbia Gas of Ohio, Inc. ("Columbia") submits this memorandum contra the application for rehearing submitted by The Office of the Ohio Consumers' Counsel, The Appalachian People's Action Coalition, Consumers for Fair Utility Rates, May Dugan Multi-Service Center, United Clevelanders Against Poverty, Organize Ohio, Communities United for Action, Pro Seniors, Inc., Cleveland Tenants' Organization, Harcatus Tri-County Community Action Organization, The Ohio Farm Bureau Federation, and The Edgemont Neighborhood Coalition (collectively, the "Consumer Groups"). The Consumer Groups' Application for Rehearing asserts eighteen grounds for rehearing, many of which were raised in the Consumer Groups' Initial and Reply Comments in this proceeding and rejected by the Commission in its December 17, 2008 Finding and Order.

Some of these grounds were addressed in Columbia's prior filings in this proceeding. The Consumer Groups' argument that providing social security numbers to utility companies will lead to identity theft (*see* Mem. Supp. Consumer Groups'

Application for Rehearing at pp. 4-8), for instance, was rebutted at length in Columbia's Initial Comments. As Columbia explained, any rule that discouraged applicants from providing their social security numbers would itself expose utility customers to potential identity fraud, because it would deprive utilities of the most effective way of verifying an applicant's identity. Columbia further explained that it has several security procedures in place to prevent applicants' social security numbers from falling into the wrong hands. (See Initial Comments (Sept. 10, 2008) at pp. 8-11.) And Columbia's opposition to initiating a Commission-Ordered Investigation on amendments to the Commission's credit, disconnection, and PIPP rules was explained in a Memorandum Contra that the Ohio Gas Association filed on Columbia's behalf last September. (See Memorandum Contra the Consumer Groups' Motion for a Commission-Ordered Investigation (Sept. 25, 2008).)

Rather than repeating those arguments here, this Memorandum Contra focuses on three of the Consumer Groups' arguments:

- H. The Commission Order unreasonably holds customers responsible for PIPP payments when they have no service.
- I. The Commission Order unreasonably fails to consider total energy burden on Ohio's low-income families in setting the standard monthly PIPP payment amount.
- M. The Commission Order unreasonably fails to provide for any "upfront" arrearage crediting as part of its incentive program in proposed Ohio Adm. Code 4901:1-18-14.

The Consumer Groups' arguments on these points provide no justification for reconsidering or revising the Commission's new rules.

1. The Commission Properly Required PIPP Customers To Continue Making PIPP Payments While Disconnected

Under New Rule 4901:1-18-12(D)(2)(b), Ohio Administrative Code (O.A.C.), a PIPP customer will become ineligible to remain on PIPP after his or her PIPP anniversary date if the customer was disconnected from gas utility service in the prior twelve months and missed any PIPP payments while disconnected. The Commission explained that it promulgated this Rule because “payment of the missed PIPP income-based amounts will reduce the customer’s accumulated arrearages while enrolled on PIP.” (Finding and Order at p. 76.) The Commission further explained that, “[i]f the Commission allows the customer to avoid responsibility for the missed income-based payments while the customer’s service is disconnected, the customer would be financially incentivized to go off and back on PIPP and would never succeed in reducing the account balance, as a result of engaging in such activity.” (*Id.*)

The Consumer Groups challenge the Commission’s conclusion, asserting that there is no evidence “that PIPP customers are engaged in a cycle of disconnection to avoid payment.” (Mem. Supp. Consumer Groups’ Application for Rehearing at p. 18.) In fact, Columbia’s Initial Comments included a graph that clearly shows a cyclical rise and fall in the number of Columbia’s active residential accounts on PIPP. (*See* Columbia’s Initial Comments at p. 4.) For each of the last five years, PIPP participation among Columbia’s residential customers has peaked in late Spring, declined through October, and then increased again through the Winter. (*See id.*) The Consumer Groups’ data does not rebut this. It merely shows that some unspecified number of PIPP customers were using more natural gas, on average, than non-PIPP customers in one month, August 2008, and that reconnections among PIPP customers do not surge in

October of each year. (See Mem. Supp. Consumer Groups' Application for Rehearing at pp. 19-20.)¹ This last finding is consistent with the data in Columbia's graph, which shows that PIPP participation does not begin rising until November of each year. (See Columbia's Initial Comments at p. 4.) The graph clearly demonstrates a seasonal pattern of disconnection and reconnection.

The Consumer Groups also assert that it is "discriminatory" to require only PIPP Customers to pay bills during months in which they do not have service. (Mem. Supp. Consumer Groups' Application for Rehearing at pp. 19 and 21.) In a real sense, the opposite is true; the PIPP program discriminates against non-PIPP customers. Only the PIPP program allows residential customers to maintain natural gas service while paying for just a fraction of their total gas usage. And, through the arrearage crediting rules, only the PIPP program allows residential customers to obtain free natural gas service, for which non-PIPP customers pay through the PIPP rider. In return for these benefits, it is fair and reasonable to expect PIPP customers to make up for any income-based payments that they miss while their service is disconnected. Contrary to the Consumer Groups' suggestion, New Rule 4901:1-18-12(D)(2)(b), O.A.C., does not force PIPP customers to pay for service they did not receive; it simply requires them to continue helping pay for service they did receive, but did not fully pay for.

Moreover, this does not represent a change from prior practice. Under current Rule 4901:1-18-06, O.A.C., a customer may not have his or her service reconnected unless he pays "all amounts that would have been due and owing under the terms of" any extended payment plan described in Rule 4901:1-18-04, O.A.C. Rule 4901:1-18-06(A),

¹ Table 4 in the Consumer Groups' Application for Rehearing, which states that it provides information regarding Gas PIPP reconnections, contains an error. The second-to-last column, which purports to provide data on the percentage of non-PIPP reconnects after 4 weeks, does not actually list percentages.

O.A.C. This includes the PIPP plan. *See* Rule 4901:1-18-04(B), O.A.C. The Commission should reject the Consumer Groups' Application and promulgate New Rule 4901:1-18-12(D)(2)(b), O.A.C., in the form in which it was issued.

2. The Consumer Groups Have Not Justified A Larger Decrease In The Income-Based PIPP Payments

The Commission's December 17 Finding and Order generally lowers the PIPP payment for gas and natural gas companies' residential customers from 10% of household income to 6% of household income. *See* New Rule 4901:1-18-13(A)(1), O.A.C. The Consumer Groups assert that 6% is unaffordable and that the payment should be set at 5% instead. (*See* Mem. Supp. Consumer Groups' Application for Rehearing at p. 25.) The Consumer Groups' argument is based on the combined "energy burden" for customers who enroll in both electric PIPP and gas PIPP. Under the Commission's amended gas PIPP plan, which sets payments at 6% of monthly income, and the Ohio Department of Development's recently amended electric PIPP plan, which also sets payments at 6% of monthly income, a customer enrolling in both PIPP plans will have a 12% "energy burden" (the total percentage of income paid for energy). (*Id.* at p. 22.) "Families who are at the poverty level," the Consumer Groups further say, "currently have a 12.4% energy burden." (*Id.* at p. 24) Moreover, "[f]amilies with incomes above 100% of the [federal poverty level] can be billed more on PIPP than their actual energy bill." (*Id.*) Because "many customers qualify for [PIPP] based on income but receive no benefit for being on the program," the Consumer Groups conclude, PIPP "payment levels are unaffordable." (*Id.*)

The Consumer Groups' conclusion does not follow from their premise. The fact that a residential customer's bills may be lower than the PIPP amount does not mean that

his payment levels are unaffordable; it simply means that the customer is managing his usage and keeping his bills relatively low. Under the Consumer Groups' logic, PIPP payments should be considered affordable only if they are low enough to incentivize more people to join the PIPP program. But, as Columbia stated in the Memorandum in Support of its Application for Rehearing, decreasing the PIPP amount to "make PIPP a better economic choice for an even greater number of customers" simply "increas[es] the financial burden on all other customers." (*See* Mem. Supp. Columbia Application for Rehearing at pp. 2-3.) Lowering the PIPP payment amount from the current 10% of income to the Consumer Groups' proposed 5% of income would simply further increase Columbia's PIPP arrearage balance. The Commission should reject the Consumer Groups' Application and, for the reasons provided in Columbia's Application for Rehearing, keep the PIPP payment at its current 10% level.

3. The Consumer Groups Have Not Justified A 50% Arrearage Credit For All Former, Current, and New PIPP Customers

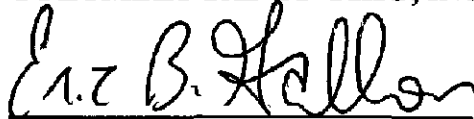
Lastly, the Consumer Groups urge the Commission to grant all former, graduate, existing, and new PIPP customers a credit of 50% of their accumulated arrearages when the new PIPP rules become effective and as new customers enroll. (*See* Consumer Groups at pp. 30-32.) The Consumer Groups argue that this will "provide an incentive" to PIPP customers to make timely payments, in that it will "provide an immediate, concrete showing of what will happen thereafter upon timely payment" and will "encourag[e] customers to migrate from PIPP." (*Id.* at pp. 30-31.) Neither of these arguments holds water.

Customers do not need to receive a large credit to their accumulated arrearages in order to understand that they can receive credits for timely payment under the incentive

program in New Rule 4901:1-18-14, O.A.C. Nor would receiving a 50% arrearage credit incentivize PIPP customers to make future payments in a timely fashion or to “migrate from PIPP”; it would simply encourage more people to enroll in the PIPP program, if they are eligible, rather than an extended payment plan. Indeed, the proposed 50% arrearage credit would give low-income customers who are not already enrolled in PIPP an incentive to increase their arrearages – or, at the very least, would remove an incentive to reduce their arrearages – because they would know that they could eliminate 50% of their arrearages automatically by enrolling in PIPP.

The Consumer Groups’ proposed 50% arrearage credit would reward former, existing, and new PIPP customers for irresponsible payment behavior while increasing the financial burden shouldered by non-PIPP customers under the PIPP rider. The Commission should reject the Consumer Groups’ Application and promulgate New Rule 4901:1-18-14, O.A.C., in the form in which it was issued.

Respectfully submitted by
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A handwritten signature in black ink, appearing to read "Eric B. Gallon", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January, 2009, true and accurate copies of the foregoing Memorandum Contra of Columbia Gas of Ohio, Inc. to the Application for Rehearing by The Office of the Ohio Consumers' Counsel et al. were served by First-Class United States Mail, postage prepaid, upon the following parties:

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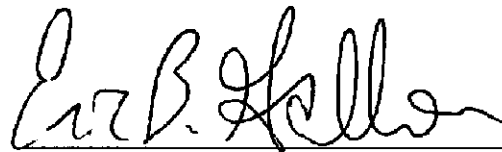
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