FILE

6

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a General Exemption Of Certain Natural Gas Commodity Sales Services or Ancillary Services.	))))	**Case No. 08-1229-GA-COI**

REPLY COMMENTS
THE OHIO GAS MARKETERS GROUP

The matter at bar concerns the five year review of the natural gas uncollectible rider ("UEX"[1]) instituted pursuant to the Commission's Opinion and Order in Case No. 03-1127-GA-UNC December 17, 2003. In accordance with the above cited Opinion and Order, the Staff of the Commission was assigned to conduct a study five years after the commencement of the UEX to: 1) identify the amounts recovered pursuant to the natural gas uncollectible riders; 2) assess the impact of any changes to the credit and collection policies and procedures of the utilities using such a rider; and 3) make recommendations and suggestions as to the continued use of the UEX. On February 5, 2009 the Staff of the Commission issued a Staff Report which listed the amounts collected pursuant to an UEX clause by utility and assessed the impact of UEX on the amount of bad debt and number of disconnections. The Staff Report concluded that the UEX had not adversely influenced collection practices or the level of bad debt. The Staff thus recommended continuation of the UEX for another five years, but suggested that the natural gas utilities which use an

[1] UEX is the acronym used in the Staff Report for natural gas uncollectible riders and to avoid confusion the Ohio Gas Marketers Group will use that acronym in this pleading.

UEX file an annual report which tracks collections from the rider, collections from customers, collections from agencies and collections by third parties[2].

On February 25, 2009 the Attorney Examiner issued an Entry inviting comments on the Staff Report and reply comments by all interested persons. The Reply Comments are offered by the Ohio Gas Marketers Group ("OGMG"). The OGMG is an ad hoc coalition of seven Commission certificated competitive retail natural gas marketers. The seven members, Commerce Energy of Ohio, Inc.; Direct Energy Services, LLC; Hess Corporation; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc.; SouthStar Energy Services LLC; and Vectren Retail LLC d/b/a Vectren Source are all active participants in the Ohio gas market and follow the Ohio gas market closely. As such the OGMG is in a position to evaluate the affect of the UEX and offer its observations to the Commission.

In general, the OGMG supports the UEX which serves two purposes. First it presents a more precise method for determining the amount of bad debt a utility faces than the method used prior to the UEX and second it provides a mechanism for collecting revenue more closely linked to the actual debt amount. Prior to the UEX, utilities as part of a rate case determined the amount of bad debt during a test year and that figure, adjusted for known anomalies, became the basis of a revenue requirement which subsequently became part of the base rates paid by customers. As discussed in the Commission's Opinion and Order in 03-1127-GA-UNC the lack of flexibility using a fixed bad debt component embedded in base rates, given the volatility of gas prices, makes the old system inferior to the use of the UEX. Simply put, the UEX adds more certainty and better linkage between the cost of bad debt and the revenue requirement of the utility.

[2] Findings and Recommendations of the Staff of the Public Utilities Commission of Ohio February 5, 2009 p.5

Nothing in the Staff Report calls into question the basic premise which created the UEX. Thus the OGMG and its members agree with recommendations by the Staff as contained in the Staff Report and offer no further amendments or alternative suggestions.

A review of the comments filed thus far show support for the Staff Report recommendations with one exception. On March 23, 2009 the Office of the Ohio Consumers Counsel ("OCC") filed comments which criticized the Staff Report on three major grounds. First, the OCC alleged that the Staff Report failed to take into account the effect of the Straight Fixed Variable rate design on the UEX[3]. Setting aside discussion regarding the merit of the Straight Fixed Variable Rate design, the simple fact is that rate design itself should not influence the UEX. If a customer fails to pay its bill the lack of revenue harms the utility in the near term by denying it cash flow and in the long run by decreasing its return on and of equity. The harmful impact on the utility is the same regardless of which rate design was used to generate the unpaid invoice. Since rate design has no impact on the use of the UEX, the Staff Report recommendations do not have to be adjusted to account for use of the Straight Fixed Variable rate design.

The second criticism of the OCC is the Staff Report's failure to adequately analyze the individual credit and collection policies of individual utilities. Citing the difference between Columbia Gas of Ohio and Dominion East Ohio as to the variance between the dollar amounts the two utilities experienced in 2007[4] the OCC opines that the Staff Report did not meet the Commission's criteria. The relative difference in collection results among the companies sheds no light on whether UEX diminishes collection. To answer that question one needs to compare by company (to eliminate the influence of relative

[3] Comments of the Office of the Ohio Consumers' Counsel March 23, 2009 p. 5
[4] Id. p. 6-7

collection practices) the collection efforts under base rate bad debt collection with UEX collections. That is what the Staff did. There is nothing in the time series of collections or the time series on shut offs that show a difference before or after the UEX for the individual companies. This does not eliminate the OCC's concern as to whether best collection practices are being employed by some utilities, but that concern should be pursued on an individual company basis and has no relevance to the merit of continued use of the UEX itself. The scope of the matter at bar is the generic impact on UEX on collections. The relative performance of one utility versus another does not call into question the use of UEX. Further, likely the difference in raw numbers between differently situated utilities is driven by economic differences between the counties and cities served by the utilities, such as median income, underemployment, distribution of income among households, and other factors bearing more on the ability of individuals to pay verses the efforts taken by the different utilities in collecting those debts.

The third issue raised by the OCC was the regulatory oversight of the UEX[5]. The OCC argues that given the replacement of the Gas Cost Recovery mechanism with an auction by some utilities, the UEX may not be subject to sufficient financial audits. Once again this issue does not go to the issue at bar of whether the UEX is flawed and should be discontinued. Whether some individual utilities should have a financial audit of their UEX fund is best handled in the fashion suggested by the Staff. The Staff suggests an annual report – something that is not conducted now. An annual report would be helpful to determine if additional financial audits are necessary for individual utilities. The downside of a financial audit is its cost, not only the expense of the outside auditors, but the necessity of using considerable utility employee hours. The OGMG fully agrees with the

[5] P. 7

comments of the OCC as to hardship these days that Ohioans are facing because of the economic decline. If the Commission orders financial audits they will be paid by customers and that will increase rates. Before we burden rate payers with additional costs, it is important to ensure that the benefit of an additional audit is justified by the expected results to be gained by the audit. That is the approach of the Staff and it makes sense especially in these tough economic times. For the reasons listed above the OGMG believe that the Staff Report's recommendation should be accepted as written.

Respectfully Submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP

M. Howard Petricoff, Esq. (0008287)
Stephen M. Howard, Esq. (0022421)
52 East Gay Street
P. O. Box 1008
Columbus, Ohio 43216-1008
Tel. (614) 464-5414
Fax (614) 719-4904
mhpetricoff@vorys.com

Attorneys for the Ohio Gas Marketers Group
Consisting of:
Commerce Energy of Ohio, Inc.; Direct Energy Services, LLC; Hess Corporation; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc.; SouthStar Energy Services LLC; and Vectren Retail LLC dba Vectren Source

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Reply Comments was served via email where applicable and/or via first class U.S. mail, postage prepaid, this 2nd day of April, 2009, upon the following persons.

M. Howard Petricoff

David Kutik
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Andrew Sonderman
Weltman, Weinberg & Reis Co., LPA
175 S. Third Street, Suite 900
Columbus, OH 43215

Paul A. Colbert
Jones Day
325 John H. McConnell Blvd.
Box 165017
Columbus, OH 43216-5017

Grant W. Garber
Jones Day
P.O. Box 165017
Columbus, OH 43215-5017

Joseph Serio
Trial Attorney
Office of Consumers Counsel
10 W. Broad Street, Suite 1800
Columbus, OH 43215

Joseph M. Clark
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4228

Lisa McAlister
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4228