

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of Chapter 4901:1-13, Ohio)	Case No. 09-326-GA-ORD
Administrative Code.)	

**JOINT INITIAL COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
AND OHIO STATE LEGAL SERVICES ASSOCIATION**

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I. INTRODUCTION

On April 22, 2009, the Public Utilities Commission of Ohio ("PUCO" or "Commission") issued an Entry calling for comments on proposed amendments by the Staff to the Minimum Gas Service Standards ("MGSS") rules, Ohio Adm. Code 4901:1-13. Initial comments are scheduled for May 22, 2009, with reply comments due on June 8, 2009.

The Office of the Ohio Consumers' Counsel ("OCC") and the Ohio State Legal Services Association ("OSLSA") together ("Joint Advocates") hereby submit Initial Comments. While this is a Joint Pleading there are certain requests in the comments that pertain specifically to OCC.

II. CHAPTER 4901:1-13 GENERAL COMMENT

As a general matter, the Joint Advocates are supportive of the intent behind the MGSS rules. Furthermore, Joint Advocates are supportive of many of the specific rules that are intended to provide residential customers certain rights that will improve the

quality of natural gas service they receive. The structure of Joint Advocates' pleading is as follows: for each rule that Joint Advocates have proposed a comment/change, Joint Advocates have included a rationale for the comment/change, as well as, the text of the rule and reflecting Joint Advocates additions (identified through underscoring) and deletions (identified as strike-through) to the proposed rule.¹

One general comment that raises concern for Joint Advocates pertains to the general availability of information publicly and to the OCC specifically. To address this concern, the Joint Advocates recommend that the Commission modify the proposed MGSS rules in order to ensure they are consistent with the provisions of R.C. 4911.16 regarding the OCC's access to records and information. R.C. 4911.16 provides that:

For the purpose of carrying out the duties given him [her] in chapter 4911 of the Revised Code, the consumers' counsel **shall** have access to all books, contracts, records, documents, and papers in the possession of the public utilities commission at any time.²

The intent of the statute is to enable the OCC to participate fully and to best represent the interests of Ohio's residential consumers. In addition, R.C. 4911.16 is not optional. The inclusion of the term "shall" indicates that the OCC is to have access to all pertinent data. The MGSS rules should be reflective of Ohio law. Therefore, it is clear that the OCC should be included in the distribution of reports, complaints or other information provided to the Commission which is compiled in conjunction with the MGSS rules.

¹ The proposed rules are as contained in the April 22, 2009 Entry by accepting proposed modifications to the current MGSS rules.

² R.C. 4911.16, emphasis added.

III. COMMENTS ON SPECIFIC RULES

4901:1-13-01 Definitions.

4901:1-13-01(A)

The proposed rules limit the application of a bona fide dispute to only those complaints registered with the PUCO call center or formal complaints docketed at the commission. Joint Advocates support the overall concept of bona fide disputes as an additional consumer protection that can help consumers avoid loss of utility services. However, as the statutory representative for residential consumers, OCC routinely works with consumers that are disputing facts and circumstances or charges on their bill.³ Residential consumers that contact to dispute utility matters should have the same rights as those afforded to residential utility consumers that contact the PUCO. Therefore, residential customer contacts with OCC should be added to the definition for bona fide dispute. The rule should be amended as follows:

- (A) “Bona fide dispute” means a complaint registered with the commission’s call center, or the OCC’s Consumer Services Department, or a formal complaint filed with the commission’s docketing division.

4901:1-13-01(E)

The current definition for consumer is overly broad and might imply that since the consumer received service from the gas or natural gas company, there may be a financial responsibility to pay for the service. The customer of the gas or natural gas company as defined within these rules has an agreement by contract and/ or tariff and is solely

³ R.C. 4911.19.

responsible for paying gas and natural gas service. Joint Advocates propose that the definition for consumer be more narrowly defined which is especially important given the different definitions that can apply for consumers and customers.⁴

- (E) “Consumer” means any person who receives service is an end user of from a gas or natural gas service who may or may not have an agreement by contract and/ or tariff with the gas or natural gas company, or responsibility to pay the gas or natural gas company for service. company.

4901:1-13-01-(K)

The current definition for “Governmental aggregation” is appropriate, but it could be improved. Shortening this definition, to a reference in R.C. 4929.01 further reduces a consumer’s understanding and familiarity with the aggregation process and its potential benefits. The Joint Advocates propose a definition that is consistent with existing rules in the electric and natural gas industries. “Governmental aggregator,” as proposed by Commission Staff, should be modified to include the following meaning:

- (K) “Governmental aggregator” means an agent, certified by the Commission, who arranges to buy or coordinate competitive retail natural gas service for the natural gas loads of consumers under section 4929.01 of the Ohio Revised Code.

4901:1-13-01 Missing definitions

The proposed rules lack definitions for several terms that should be in the rules. Missing definitions include the standard unit of measure for natural gas and, definition for tampering. Because natural gas is billed in Ccf or Mcf, the units of measure should

⁴ For example, R.C. 4929.01(E) has a definition for consumer that is more consistent with the definition of customer in these rules. “Consumer” means any person or association of persons purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas, including industrial consumers, commercial consumers, and residential consumers, but not including natural gas companies.

be included in the rules. Tampering is included in the Disconnection rules, Ohio Admin. Code 4901:1-18. In addition, the proposed definition for fraudulent practices mentions that tampering or unauthorized reconnection of service are not part of the definition. However, the rules do not define tampering or unauthorized reconnections. The following additions should be made to the definitions:

() Mcf is a unit of measure for billing natural gas as one thousand cubic feet.

() Ccf is a unit of measure for billing natural gas as one hundred cubic feet.

() Tampering means to interfere with, damage, or by-pass a utility meter with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter. Tampering includes the unauthorized reconnection of a gas or natural gas meter that has been disconnected by the utility.

4901:1-13-03 Retention of records and access to records and business activities.

4901:1-13-03(C)

Certain rules propose shorter record retention periods than the three years required pursuant to Ohio Adm. Code 4901:1-13-03(C). Establishing a fixed three-year retention schedule for maintaining records (e.g. non-customer usage and billing history records) is inconsistent with current rules which establish retention periods for customer usage information and billing history pursuant to Ohio Adm. Code 4901:1-13-12(E) that requires much shorter retention schedules. The cost for electronic data storage has dropped considerably since these rules were initially developed. Therefore, the natural gas companies should be required to maintain all records, including customer usage and

billing history records, at least three years or for a longer period of time necessary to demonstrate compliance with Commission rules:

- (C) Unless otherwise specified in this chapter, each gas or natural gas company shall maintain records for at least three years that are sufficient to demonstrate compliance with the rules of this chapter.

4901:1-13-04 Metering.

4901:1-13-04(C)

The current rules provide a right to gas or natural gas employees or authorized agents to access metering equipment for several purposes including reading, replacing, repairing, testing, or verifying that installations comply with the company's requirements. The gas and natural gas utilities should not be allowed to implement policies that result in requirements for access to premises that go beyond the requirements approved by Ohio law, or Commission standards that are promulgated through either rules and/or tariffs.

To help address this concern, the Commission should modify the rule as follows:

- (C) Gas or natural gas company employees or authorized agents of a gas or natural gas company shall have the right of access to metering equipment for the purpose of reading, replacing, repairing, or testing the meter, or determining that the installation of the metering equipment is in compliance with Ohio law and/or Commission rules. ~~the company's requirements.~~

4901:1-13-04(D)

The current meter testing standards provide customers with the right to request a meter test and for a gas or natural gas company to comply with the request within thirty days. In addition, the customer has a right to be present during the meter test. Utilities must inform the customer of the cost of the test before the test occurs. If however, the

meter test demonstrates that the meter is outside the tolerances specified by law,⁵ the gas or natural gas company cannot assess a charge for the test.

Joint Advocates recommend that several changes are appropriate in this rule. First, customers will only know they have a right for a meter test or to witness such test if that right is communicated to the customer by the gas or natural gas utilities. If customers believe they are receiving bills that are higher than what reflects their usage, which may be the result of a problem with the meter, then they should not be discouraged from requesting a meter test. The gas and natural gas companies have a responsibility for ensuring that metering equipment is functioning correctly. Requests for meter tests should be encouraged to the extent the public confidence in being accurately billed is increased and that such requests might reveal meter problems that need to be corrected.

Joint Advocates note that the Electric Service and Safety Standards (ESSS) that have been in effect for almost a decade provide customers with the right to a meter test every three years upon request without being assessed a charge if the meter is within established tolerances.⁶ There is no reason to believe that Ohio natural gas customers are not also concerned about accuracy of meters and would not expect the same right to test gas meters every three years without charge.

Based on a cursory review of the meter test standards in other jurisdictions, other states allow customers to request a meter test every year without being assessed a

⁵ R.C. 4933.09, Testing of gas meters. R.C. 4933 states: Gas meters in use shall be tested on the request of the consumer, in his presence if desired by him, with a tested and sealed meter-prover, by an officer or servant of the gas company. If the meter is found to be correct, and it is deemed correct if the variation is not greater than three per cent, the party requesting the inspection shall pay a fee of twenty-five cents, and the expense of removing it for the purpose of being tested. The reinspection shall be stamped on the meter. If the meter is proved incorrect, no fees or expense shall be paid by the consumer, and the company shall furnish a new meter without charge to the consumer. No gas company shall charge rent for meters.

⁶ Ohio Admin Code 4901:1-10-05(F)(4)9(b).

charge.⁷ Similar to the electric meter testing standards, to the extent that gas and natural gas companies are assessing meter testing charges, such charges should be explicitly approved by the Commission, and included within the natural gas company's tariffs.

Second, if the meter test reveals that the meter is not functioning correctly and the customer was overcharged for natural gas service, the utility is required to either pay or credit the customer with the amount of the overcharge within thirty days. However, the rules are not explicit and through clarification in the rule, the customer should be given the option to determine whether payment or refund for the overcharge is desired, or if the customer wants the overcharge to be credited to the account. The decision to receive a payment or credit for the overcharge should be at the customer's discretion.

Third, when the customer has been overcharged for a long period of time, the rules do not require the utilities to pay interest on the overcharge. Therefore, the utilities receive benefits from the additional revenue that was received by having faulty meters in the field; yet, the natural gas company does not have a duty to pay customers for the use of the customer's money. This is fundamentally unfair and should be addressed within the rules with a requirement that interest be paid on the overcharge. The amount of interest should be no less than the amount the Company charges for late payment fees, which generally is 1.5% per month.

Finally, there are factors that should be considered in determining what the usage was during periods of time in which the meter is not functioning properly. If the usage cannot be determined from a meter reading, the rules require that the metered usage for

⁷ Illinois Title 83, Chapter I, Subchapter d, Part 500 Standards of Gas Service for Gas Utilities, Section 500.220, Meter Tests Requested by Customers. Utah Rule R746-320-3, Uniform Rules Governing Natural Gas Service,

the period of time prior to the time that the meter was not functioning properly be used to determine the billing. Requiring historical metered usage for a prior period of time is not necessarily reflective of what the usage would have been during the time the meter was not functioning properly. There are several other factors that should be considered including weather, changes in household size, changes in the efficiencies of furnaces or other appliances that affect usage, and other changes in the physical energy profile of the household. These factors should also be included in calculations that determine what the usage should have been. The changes in this rule are reflected as follows:

- (D) Meter test at customer's request. Metering accuracy shall be the responsibility of the gas or natural gas company. Customers may request a meter test every three years and shall not be assessed any charge for such test regardless of the results of the test. The customer shall be informed of this right through periodic bill inserts and through an annual notice on the bill.

...

- (2) The customer or the customer's representative may has the right to be present when the meter test is performed at the customer's request. Customers shall be informed of their right to be present at the meter test during the time that such meter test is being scheduled with the customer.
- (4) Each company shall notify the customer of any applicable charges prior to the test. Such charges must be approved by the Commission and be included in a tariff.
- (5) If the accuracy of the meter is found to be outside the tolerances specified in this rule, the gas or natural gas company shall do all of the following:
 - (a) Not assess be charged for any meter testing unless authorized by tariff. ~~charge a fee or recover any testing expenses from the customer.~~

* * *

- (c) Within thirty days, pay or credit at the customer's discretion any overpayment to the customer, in accordance with one of the following billing adjustments:
 - (i) When the company or customer has reasonably established the approximate period of meter inaccuracy, the overcharge shall be computed on the basis of a customer's metered usage prior and/or subsequent to such period consistent with the rates in effect during that period. In consideration of computing usage subsequent to the meter inaccuracy, the computation for the amount of overcharge shall account for such factors that include weather, changes in household size, changes in appliances, or other changes that were made in the energy profile of the dwelling.

4901:1-13-04(G)

The current rules require each company to make a reasonable attempt to actually read the meter every other month. Several of the companies are currently installing Automatic Meter Reading (AMR) equipment across their service territory and the public expectation is that meters will soon be read on a monthly basis after the AMR equipment is installed. Joint Advocates understand that installation schedules outline when the AMR installations will be complete in specific geographic areas. To help ensure that the public obtains the benefits of the actual meter read as soon as possible, Joint Advocates recommend that each gas or natural gas company installing AMR equipment be required to develop implementation plans which establish when monthly meter-reading requirement goals which will be met. The implementation plan should coincide with the installation schedule pertaining to specific geographic areas of the company's service territory such that monthly meter reads begin when the installation is reaches a significant

saturation of completed AMR installations within specific meter-reading areas (e.g. 85%).

These rules require each gas or natural gas company to submit a plan to the director of the commission's service monitoring and enforcement department for ensuring that all customer meters are read at least once every twelve months. Updates to the plan are required to be submitted to the director of the service monitoring and enforcement department every three years. Plans that are merely provided to the director of the service monitoring and enforcement department deny the public necessary information and opportunities for sharing input in ways the plans can be improved. The meter reading plan(s) and periodic updates should be publicly filed and subject to comment.

Joint Advocates recommend that the content of the plans include provisions for performing meter reads during evenings and weekends when customers may be more accessible. Weekday evenings and weekends may be the most convenient time for some customers to provide the company access to read meters.

Furthermore, the proposed rules provide a rebuttable presumption that gas companies' compliance with their meter reading plan will demonstrate their compliance with the PUCO's service standards. The meter reading plan is not approved by the PUCO and therefore, should not imply compliance over these rules. In a complaint case, a gas company should be required to demonstrate compliance with the Ohio law and PUCO rules and not some arbitrary meter reading plan.

The application for correcting undercharges as a result of meter inaccuracies in the proposed sub-paragraph 3 is unclear. If the intent is to apply the undercharge

provisions to residential consumers, the rule appears to deny residential customers the opportunity for longer-term payment plans as required by Ohio law. R. C. 4933.28 requires any undercharge for residential customers as a result of a meter or metering inaccuracy or other continuing problem under its control to be billed in at least twelve installments.⁸ Joint Advocates recommend that appropriate changes be made to this rule to ensure compliance with the law.

The proposed rules enable customers to request actual meter reads twice per calendar year without charge. However, the rule limits the customer's ability to make such requests to situations where the usage for estimated for more than two consecutive months. Customers should be able to request meter reads to confirm that a previous read was performed correctly. Therefore, limitations in when customers can request an actual meter read should be removed from the rule.

Gas and natural gas companies are required to perform an actual meter read when service is initiated or terminated unless the company has actually read the meter in the preceding seventy days. Expectations that customers should assume responsibility for seventy days of inaccuracy in metered usage when service is initiated is unreasonable. A new customer can be paying for some portion of up to seventy days of usage that occurred before they moved to the household. While Joint Advocates support actual meter reads upon initiation or termination of service, there is sensitivity for finding the appropriate balance between consumer protections and helping utilities control costs.

⁸ Ohio Revised Code 4933.28(A), Correcting residential utility billing. "The maximum portion of the undercharge for un-metered gas or electricity rendered that may be recovered from the customer in any billing month shall be determined by dividing the amount of the undercharge by twelve and the quotient is the maximum portion of the undercharge that the company may, subject to division (C) of this section, recover from the customer in any billing month***."

Joint Advocates recommend that an actual meter read be performed to initiate or terminate service if the meter was not read by the company in the preceding seven days.

One final meter reading issue involves landlord/tenant situations where the company requires access to the meter where the landlord controls and is denying access. The Commission should modify the rules to allow the natural gas company the opportunity to recover from a landlord the costs incurred in enforcing reasonable meter access when the landlord is denying access.⁹ The state of New York has similar requirements for attempting to secure access and has addressed the issue by determining that the person (presumably the landlord) that is controlling access to the meter can be held responsible for the costs to secure access.

(G) Meter reading

- (1) Each gas or natural gas company shall obtain actual readings of its customer meters at least once every twelve months. At a minimum, each company shall make reasonable attempts to obtain actual readings of its customer meters every other month, except where the customer and the company have agreed to other arrangements. Meter readings taken by electronic means (i.e., automated meter reading equipment) shall be considered actual readings. While remote meter index equipment readings may be used by a company, they do not qualify as actual meter readings. When billing customers based on estimated usage, the gas or natural gas company shall calculate the amount due using the applicable rate(s) in effect during each period of estimated usage. Actual meter reads shall be performed by the company on a monthly basis when AMR installations in a specific geographic area of a gas or natural gas company's service territory are completed in accordance with the AMR implementation plan approved by the Commission.

⁹ New York Home Energy Fair Practices Act, Part II, Section 11.13(e), April 19, 1984

- (a) Each gas or natural gas company shall publicly file ~~submit a plan to the director of the commission's service monitoring and enforcement department with the commission~~ to read all customer meters at least once every twelve months. Plans should include the steps, notices, and measures the company intends to take in order to read each customer's meter at least once every twelve months. Such plans shall include special provisions for making evening and weekend meter reads available to customers. Each gas or natural gas company shall update or resubmit its plan for review every three years.
 - (b) If the director of the service monitoring and enforcement department or the director's designee rejects the plan or does not approve the company's plan within one hundred twenty days of submittal, the gas or natural gas company may file a request with the commission for a hearing seeking approval of its plan. In such event, the gas or natural gas company shall file a written report and provide documentation supporting its plan.
 - ~~(c) Adherence to the procedures of a gas or natural gas company's plan, accepted under the terms of this rule, shall place that gas or natural gas company in compliance with the requirement to read each meter at least once every twelve months. In the event that a complaint proceeding is brought under section 4905.26 of the Revised Code, alleging that a gas or natural gas company failed to read the meter at least once in the twelve month period, adherence to the company's accepted plan will also create a rebuttable presumption that the company's failure to read the meter at least once in the twelve month period was a matter beyond its control.~~
- (2) If a gas or natural gas company fails to read a residential or small commercial customer's meter for any reason for any twelve-month period and the company has underestimated the customer's usage, the company may only bill the customer for the difference between the estimated usage and the actual usage under the terms of section 4933.28 of the Revised Code based upon the appropriate rates in effect at the time the gas or natural gas was used. If the company

fails to read a residential or small commercial customer's meter for any twelve-month period and the company has overestimated the customer's usage, the company shall credit or pay, at the option of the ~~such~~ customer, for the overestimated usage at the appropriate rate(s) in effect at the time the gas or natural gas was used.

- (3) When a gas or natural gas company has undercharged any residential or small commercial customer as the result of a meter or metering inaccuracy or other continuing problem under the gas or natural gas company's control, unless the customer and the company agree otherwise, the maximum portion of the undercharge that may be billed to the customer in any billing month, based upon the appropriate rates, shall be determined by dividing the amount of the undercharge by twelve ~~the number of months of undercharged service~~. ~~The undercharge correction shall be~~ in compliance with division (AB) of section 4933.28 of the Revised Code. Each gas or natural gas company shall state the total amount to be collected in the first bill under this rule. This paragraph shall not affect the gas or natural gas company's recovery of regular monthly charges. This paragraph shall not apply in the event there has been either the tampering with or the unauthorized reconnection of the meter, metering equipment, or other property of the gas or natural gas company during the involved period of time, where such activity causes meter or metering inaccuracies or no measurement of service.
- (4) Upon the customer's request, and in addition to the requirements of paragraph (G)(1) of this rule, the gas or natural gas company shall provide two actual meter readings, without charge, per calendar year. ~~The customer may only request an actual meter reading, without charge, if the customer's usage has been estimated for more than two of the immediately preceding billing cycles consecutively.~~ Nothing in the preceding sentence is intended to limit a customer's ability to obtain a meter reading prior to transferring service to a new retail natural gas supplier or governmental aggregator as provided by paragraph (J) of rule 4901:1-29-06 of the Administrative Code.
- (5) Each gas or natural gas company is required to perform an actual meter reading at the initiation and/or the termination of service if the meter has not been read by the company

within the immediately preceding ~~seventy~~ days and access to the meter is provided.

* * *

- (8) Where there is a landlord/tenant relationship and neither the gas or natural gas company nor the customer has access to the meter, the gas or natural gas company shall render notice by mail to both the landlord, when the address is available, and the tenant, summarizing its inability to obtain access to the meter for any of the provisions of this rule. Any cost incurred by the gas or natural gas company to obtain reasonable access to the meter shall be borne by the landlord, not the customer.

4901:1-13-05 Minimum customer service levels.

4901:1-13-05(A)

While Joint Advocates recognize that these are minimum service standards, a requirement that gas utilities would have up to five days to complete 90 percent of the new service installations when there is no installation of gas pipelines required is below minimum service. When the MGSS rules were initially developed, the Commission observed that the standards were an initial attempt at establishing appropriate levels of service. The Commission has reporting requirements that mandate certain reports be provided to the Staff when the gas companies are unable to comply with these rules.¹⁰ Through a public records request, Joint Advocates were able to determine that since 2007, all of the natural gas companies have been able to meet the minimum service requirements with the exception of one telephone answering time issue rule requirement. While Joint Advocates are encouraged that the utilities are meeting the requirements, there is a lingering concern from the last case that the rules were established at sub-standard levels. Therefore, Joint Advocates suggest that the minimum standards should

¹⁰ Ohio Admin Code 4901:1-13-5(E).

be evaluated in light of the experience the Commission now has with gas service standards and that will increase benefits for consumers.

For example, there are many reasons why customers may not be able to provide five days advance notice of the date that service needs to be initiated. The gas company should be responsive to the customers' needs and be held to a standard of accomplishing ninety percent of the new service installations within two business days when new gas pipeline is not required. This may be especially important in the winter months when consumers desperately depend on natural gas for health, welfare and safety. All new service requests should be completed within five business days unless the problems are outside the company's control.

- (A) Service initiation and upgrades. Each gas or natural gas company shall complete the installation of new service as set forth in this paragraph. Percentages shall be calculated as monthly averages (based on a calendar year).
 - (1) Ninety per cent of residential and small commercial new service requests requiring no installation of gas pipelines shall comply with either one of the following requirements:
 - (a) Requests will be completed within five two business days during the winter months, November 1 through March 31, after the gas or natural gas company has been notified that the customer's service location is ready for service and all necessary tariff and regulatory requirements have been met, and within five days during the non-winter months.
 - (4) If a residential or small commercial customer complies with all pertinent tariff requirements and the gas or natural gas company cannot complete the requested service installation because of customer pipeline problems, or service upgrade as set forth in paragraph (A)(1) or (A)(2) of this rule, the gas or natural gas company shall promptly notify the customer of the delay either in person or via

telephone, the reasons for the delay, the steps being taken to complete the work, and the probable completion date. If a rescheduled completion date cannot be met, the customer shall be promptly notified. If the rescheduled completion date is delayed more than five business days, written notification shall be given to the customer including the reason(s) for the delay, the steps being taken to complete the work and the new rescheduled completion date. This notification process shall be repeated as necessary. Each subsequent missed completion date shall count as a missed service installation or upgrade for purposes of calculating performance under paragraph (A)(1) or (A)(2) of this rule.

4901:1-13-5(C)

Staff proposed a new rule that limits the gas or gas company responsibility for meeting scheduled appointments when call-ahead services are provided if the customer does not answer the call when the call is made. This rule allows the company to cancel a customer's appointment without actually speaking to the customer. Customers could be awaiting the call-ahead yet be temporarily occupied and unable to accept the call. Just because the call was missed should not result in customers having to wait for an extended period of time for a rescheduled appointment. Joint Advocates recommend that this new proposed rule be deleted. In the alternative, the Commission should require the gas or natural gas company to dial two telephone numbers for accessing customers, or dial the one number twice, and offer a method by which the customer can return the company's call and promptly speak with a person in order to retain the appointment. If the company uses an automated system that does not offer the customer a way to call the company back, then the appointment should not be cancelled. While the rules have specific standards that ninety-five per cent of scheduled appointments occur on-time, there are no ramifications for failing to meet the scheduled appointments. Customers may be off-work and incur financial losses to meet the appointment. If a scheduled appointment is

missed, by the natural gas company, then the gas and natural gas companies should provide credits to customers for their failure to meet a scheduled appointment.¹¹ Joint Advocates propose that the level of the credit be the monthly customer charge for the month in which the appointment was missed.

(C) Scheduled appointments with customers.

- (1) The gas or natural gas company shall provide all customers with an expected company arrival time window of four hours or less for all appointments requiring the customer to be present.
- (2) On an average monthly basis (based on a calendar year), each gas or natural gas company shall complete ninety-five per cent of the scheduled appointments with its customers.
- ~~(3) If the gas or natural gas company offers a call ahead process to confirm its imminent arrival at an appointment and the customer has requested telephonic notification of the company's imminent arrival, then, if the customer does not respond to the call, the appointment shall be considered to have been cancelled by the customer.~~

Or in the alternative:

- (3) If the gas or natural gas company offers a call ahead process to confirm its imminent arrival at an appointment then the gas or natural gas company is required to dial two telephone numbers for accessing customers, or dial the one number twice, and offer a method by which the customer can return the company's call and promptly speak with a person in order to retain the appointment.
- (4) When the gas or natural gas company will not be able to meet a scheduled appointment with a customer, the

¹¹ In the Opinion and Order for Case No. 05-602-GA-ORD, January 18, 2006, at 11, the Commission noted that the "proposed rules establish minimum levels of customer service in order to encourage utilities to provide service in a timely manner * * *." OCC appreciates the attempt to balance consumer and industry needs. However, the Commission now has several years of experience with gas service standards and the minimum gas service standards do not appear to have had any adverse affect on the industry. Consumers deserve better consumer safeguards and the Commission has an opportunity in this case to once again review the rule and establish a more equitable balance between consumers and the natural gas industry interests. Credits for missed appointments are one way to assure this intended balance protects consumers.

company shall reasonably attempt to notify the customer in advance of the failure to meet the appointment and arrange a new appointment date and time. Residential customers shall be credited the monthly customer service charge for the month in which the gas or natural gas company failed to meet the scheduled appointment.

4901:1-13-05(D)

The proposed rules require the company to complete repairs that require shutoff of service by the end of the next day after the service has been shut off. Staff has not provided any rationale for why such a lengthy period of time is provided to complete repairs. In addition to the inconvenience that customers experience when gas is shutoff, there is a risk of significant property damage during cold weather as a result of frozen pipes. The vast majority of repairs should be made on the day gas is shutoff and all repairs should be completed by the next day:

- (D) If the gas or natural gas company repairs customer service lines, the company shall complete the repair of service-line leaks that require service shutoff by the end of the next day after the service has been shut off. On an average monthly basis (based on a calendar year), each gas or natural gas company shall complete ninety-five percent of these repairs on the same day ~~by the end of the next day~~ service has been shut off.

4901:1-13-05(E)

Gas or natural gas companies are required to provide a notice to the PUCO's director of service monitoring and enforcement department for any month in which they do not meet the minimum service requirements provided within these rules. However, there is no requirement for gas or natural gas companies to publicly file these notices so that other interested stakeholders are aware of the service issues. For this reason, gas or natural gas companies should publicly file these notices so that all parties including the

PUCO staff are aware of the issues. Staff's recommendations to address the service issues should likewise be publicly filed:

(E) Reporting requirements.

- (1) When a gas or natural gas company does not meet the average monthly minimum service level set forth in paragraph (A), (B), (C), or (D) of this rule, in any calendar year, the gas or natural gas company shall publicly file a notice ~~notify the director of the commission's service monitoring and enforcement department or the director's designee in writing~~ within sixty days after such failure. The notification shall include any factors that contributed to such failure, as well as any remedial action taken or planned to be taken or rationale for not taking any remedial action. Any failure to report the lack of compliance with the minimum service levels set forth in paragraph (A), (B), (C), or (D) of this rule constitutes a violation of this rule.
- (2) The commission's staff shall review and evaluate the failure reports required by this rule and make any necessary recommendations, to the commission for or any corrective measures to the gas or natural gas company. Such recommendations and required corrective measures shall be docketed with the PUCO.

4901:1-13-06 Provision of customer rights and obligations.

4901:1-13-06(A) and (B)

The written summary of the customer rights and obligations document is an important consumer protection and is essential for customers to understand rights that they have with respect to their natural gas service. Unfortunately, this document is provided when service is initiated and thereafter only upon request. There is concern that customers may not remember having received the document when the service was initiated or cannot locate it at a later date, and may not be aware of their right to some later request. Joint Advocates recommend that customers be better informed about the availability of the customer rights and obligations summary by requiring that the

existence of the customer rights and obligations document be communicated periodically through a bill insert or on the bill state that a customer rights and obligations summary can be obtained upon request. In addition, the company should be required to make the customer rights and obligations summary available via their website. Finally, OCC should be provided an advance copy of the summary to ensure that information is being clearly and consistently communicated to residential consumers.

The content of the customer rights and obligations summary lacks details explaining the contents of the customer bill. Natural gas bills are complex and include much information that is needed by consumers including the unbundling of charges, rates, payment responsibilities, and other useful information. Having a summary of this information in the customer rights and obligations document would be beneficial in helping keep the public educated about natural gas services.

In addition, customer rights and obligations related to the different natural gas choice programs should also be included in the customer rights and obligations document. This information is necessary for consumers to understand their various choice options and provide necessary details as to how the programs operate. The type of information that should be included are: the enrollment process, aggregation, and terms that are included in choice contracts, etc.

- (A) Each gas or natural gas company shall provide new customers, upon application for service, and existing customers upon request, written summary information detailing who to contact concerning rights and responsibilities under this chapter. This summary information shall be in clear and understandable language and delivered to customers. The company shall annually inform customers about the availability of the customer rights and obligations document via bill insert or as a bill message. Each gas or natural gas company shall submit the initial version of the summary information and notice of each subsequent amendment

thereafter to the director of the commission's service monitoring and enforcement department or the director's designee in writing for review prior to the first mailing of that version of the summary information to its customers. OCC should also be provided with a copy of the summary information. The customer rights and obligations summary shall be made available via the company website. For purposes of this rule, "new customer" means a customer who opens a new account and has not received such summary information within the preceding year.

- (B) At a minimum, the summary information shall include the following items and shall instruct customers how to get further information orally or in writing.

...

(9) Information about the different components of the bill including how to read the bill and payment rights and obligations.

(10) Information regarding choice options available for the consumer.

4901:1-13-07 Employee identification.

The rules require gas company employees that are seeking access to customer premises to identify themselves, upon request with a photo identification and a stated reason for the visit. Personal security is a major issue in many parts of the state and customers should not be obligated to ask the company employee for identification or to disclose why they are on the premises. The gas company employees should be required to wear photo identification and to advise the customer why they need access to the premises without being asked by the customer.

Any gas or natural gas company employee or agent seeking access to the customer's or landlord's premises shall, ~~upon request~~, identify himself/herself, provide company photo identification, and state the reason for the visit.

4901:1-13-09 Fraudulent practice, tampering, and theft of gas service.

4901:1-13-09(A)

The rules require the gas or natural gas companies to have antitheft and anti-tampering plans. The rules, however, do not specify content of the antitheft and anti-tampering plans. Because the allegations of theft and tampering of service can have significant impact on consumers and can result in denial of access to essential natural gas service, the Commission should ensure that all procedures that outline the due process that is afforded customers is included in the plans. Copies of the plans should be distributed to the Staff, OCC and Ohio State Legal Services Association for comment.

- (A) Each gas or natural gas company shall establish and maintain an antitheft and anti-tampering plan. The antitheft and anti-tampering plans shall include the requirement for the gas or natural gas company to notify the customers who are accused of tampering and/ or theft of service, and provide them with an opportunity to respond to the gas or natural gas company's accusations prior to termination of service, unless such tampering or theft of service has created an unsafe condition. Such plans shall be provided to the PUCO director, service monitoring and enforcement department, Ohio Consumers' Counsel and the Ohio State Legal Services Association for comment.

4901:1-13-09(B)

The rules, as originally drafted, only allowed disconnection of service, without prior notice, for tampering or unauthorized reconnection of service only for safety reasons. The staff had proposed striking from the current rule, the phrase “for safety reasons” and therefore expanding the opportunity for disconnection of service, without prior notice, for reasons other than for safety reasons. That limitation should be reinstated into the rules.

- (B) Disconnection of service for tampering or unauthorized reconnection.

- (1) A gas or natural gas company may disconnect service for safety reasons without prior notice to a customer when either of the following occurs:
 - (a) The gas service meter, metering equipment, or associated property was damaged, interfered with, displaced, bypassed, or otherwise tampered with by a customer, consumer, or other person.
 - (b) A person not authorized by the gas or natural gas company has reconnected service.

4901:1-13-09(C)

The rules require natural gas companies to provide a notice to customers that are being accused of fraudulent practices prior to disconnecting service. However, because of the potentially sensitive nature of the allegations that are made against the customer, the customer should have the right to communicate directly with the department that is handling the inquiry and not through the general call center.

(C) Disconnection of service for fraudulent practice.

- (2) The notice shall include the following information:
 - (a) A description of the alleged fraudulent practice.
 - (b) The gas or natural gas company telephone number and notice that the customer may contest the company's findings by requesting an opportunity to discuss the matter with the department in charge of investigating the alleged fraudulent practice.

4901:1-13-10 Complaints and complaint-handling procedures.

As the statutory representative for residential consumers, OCC handles individual complaints from the public about their utilities. The utilities' response time to OCC for the handling OCC complaints should be no less prompt than the companies' responses

provided to the Staff given the sensitivity and potential legal ramifications that may be involved. Joint Advocates recommend that the rule be amended to include response times for OCC complaints.

- (D) If an investigation is not completed within ten business days, the gas or natural gas company shall provide status reports to update the customer/consumer, or update the customer/consumer and commission staff when investigating a complaint referred to the gas or natural gas company by the commission or commission staff and/or OCC, either orally or in writing, at five-business-day intervals, unless otherwise agreed to, until the investigation is complete.
- (E) Each gas or natural gas company shall inform the customer/consumer, and commission staff when involved, of the results of the investigation, orally or in writing, no later than five business days after completion of the investigation. The customer/consumer or commission staff and/or OCC may request the final report to be in writing.
- (F) If the customer/consumer disputes the gas or natural gas company's report(s), each gas or natural gas company shall inform the customer/consumer that the commission staff is available to mediate complaints. The company shall provide the customer/consumer with the commission's current address, website, local and toll-free telephone numbers, ~~and~~ TTY toll-free telephone number of the commission's call center, and the toll-free number for the OCC and website.

4901:1-13-11 Gas or natural gas company customer billing and payments.

4901:1-13-11(B)

The rules appropriately address that natural gas bills should be rendered on a monthly basis. However, there is still ambiguity in the term "monthly" that might result in customers being rendered bills for a period of time longer than one month. To the extent that the problem for gas and natural gas companies generally occurs during the holiday season (e.g. November and December) the companies should adjust their meter reading route schedules to mitigate the length of time between readings for their

customers. Therefore, Joint Advocates recommend that bills should be rendered on a monthly basis for service during the proceeding 28 – 31 days. This recommendation helps customers in budgeting for their natural gas costs on a monthly basis while also avoiding high bills that result from long billing cycles.

- (B) Bills issued by or for the gas or natural gas company shall be accurate and rendered at monthly intervals for service provided in the previous 28 -31 days and shall contain clear and understandable form and language. Each bill shall display all of the following information:

4901:1-13-11(B)(22)(e)

The rules fail to specify the information that PIPP customers need on the bill to properly manage their accounts. In the recent credit and collection rules review, Case No. 08-724-AU-ORD, OCC and other low-income advocates recommended that an annual PIPP Summary be provided to PIPP customers to provide important account information such as annual verification dates, usage summaries, payment data, and arrearage credits that were earned. In the Entry on Rehearing in that case, the Commission granted Consumer Group’s request for rehearing for the purposes of determining the type of information that will be available for PIPP customers on the bill.¹² Regrettably, the proposed rules do not include recognition of Consumer Group’s, and the other low-income representatives’ successful advocacy in the credit and collection rules review. The PIPP program is complicated and the changes that are being made pursuant to the recent rulemaking, in Case No. 08-724-AU-ORD, demand that

¹² In the Matter of the Application of the Commission’s Review of Chapter 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. 08-724-AU-ORD, Entry on Rehearing, April 1, 2009, at 36 (OSLSA participated in this case representing APAC).

PIPP customers understand in detail how the program works. Joint Advocates recommend an annual account summary, and that the following additional PIPP information be provided on the bill.

- (22) If applicable, all the percentage of income payment plan (PIPP) billing information:

. * * *

- (e) ~~Any other information required to implement the Annual PIPP re-verification date, number of payments made by the due date in the last 12 months, any missed PIPP payments since the last re-verification, arrearage credits provided for the last month, arrearage credits for the last 12 months, arrearage credits provided during the last 24 months, usage data compared with average residential usage, tips for conservation and available weatherization assistance. program under Chapter 18 of the Administrative Code.~~

4901:1-13-11(B)(25)

The rules require a gas or natural gas company to provide twelve months of historical consumption information if the company has a choice program. There can be no doubt that consumption information is helpful for consumers in evaluating total gas costs using different suppliers and rates. However, there are other benefits for including the twelve months of consumption information on the bill that go beyond just assessing competitive choices. For example, customers may want to compare usage from the current month with the same month the previous year. Customers may want to see graphically which months were billed based on actual reads and which months were based on estimated meter reads. The graphical chart can also show where adjustments were made on the bill to correct for inaccurate reads. Therefore, the requirements for the twelve months of consumption history should not be limited to just gas or natural gas

companies that have choice programs. All gas customers can benefit from having twelve months of historical consumption history. This rule should be amended as follows:

- (25) The customer's historical consumption during each of the preceding twelve months, with a total and average consumption for such twelve-month period, ~~if the company has a choice program.~~ The consumption data shall clearly indicate whether the usage was determined by an actual meter read, by an estimated meter read, by a customer-provided meter read, or whether any adjustments to the consumption data is included.

4901:1-13-11(B)(26)

The rules limit the content of information available on the bill about competitive choices to just the PUCO's *Apples to Apples* notice. The PUCO "apples to apples" has valuable information for all consumers. But OCC also specifically develops, informational updates, on its website pertaining to competitive choices referred to as *Comparing Your Energy Choices* for residential natural gas consumers. This information was created specifically to meet the needs of residential consumers and includes a comparison of supplier rates, contract terms, and other criteria that is of interest by residential consumers considering their competitive options. The Commission should promote the availability of other resources than just the *Apples to Apples* on natural gas bills. OCC recommends that the following change be made in this rule:

- (26) A prominently displayed "apples-to-apples" notice, if the company has a choice program. Residential consumers shall be directed to the OCC website for the *Comparing Your Energy Choices* analysis.

Ohio Adm. Code 4901:1-13-11(B) should include an additional numbered sub- provision that requires the content of a gas or natural gas company billing statement to include the fixed monthly customer charge as a separate component of the bill.

The rules do not require gas companies to separately list the monthly customer service charge on the bill. Having the monthly customer charge separately itemized on the bill is important because it provides consumers with the approximate cost of having natural gas service without consideration of the usage-related charges. Consumers need this level of billing detail in order to obtain a full understanding of the components of their natural gas bill. To the extent that the customer charge is not displayed in the billing statement as a separate line item, the recent significant increase to this charge as a result of the straight fixed variable rate design implementation is not clearly brought to the consumers attention, Joint Advocates recommend that the customer monthly service charge be separately itemized on the bill as follows:

(XX) The monthly customer service charge.

Ohio Adm. Code 4901:1-13-11(B), should include an additional numbered sub- provision that requires the content of a gas or natural gas company billing statement to include choice comparison information on natural gas bills.

The rules do not provide any information to help potential choice customers determine the rate that is provided by the natural gas company for commodity service that could be compared with supplier rates to determine the viability of different competitive options. In addition, the choice customer bills do not include a summary of what were the costs for commodity service with a supplier compared with what those costs would have been had the customer remained a natural gas company customer. Without this information, consumers are limited in their ability to make a direct comparison between different rates.¹³

¹³ Ohio Adm. Code 4901:1-10-22(B)(23).

In addition, choice consumers should be provided a monthly update that shows what the gas costs would be with the natural gas company compared to the charges that were assessed by their supplier. Without having this information on the bill, residential consumers are not readily able to discern their savings or losses that have resulted from their being on the choice program. OCC recommends that a sub-rule be added as follows:

(XX) If the company has a natural gas choice program, a rate to compare shall be displayed that provides the rate the company charged for the natural gas commodity during the billing month. On a monthly basis, a chart shall be provided on choice customer bills that show the supplier charges for the natural gas commodity service for the previous twelve months compared with an assessment of what those charges would have been with the natural gas company.

4901:1-13-11(C)

The rules provide an important consumer protection by allowing a customer at least fourteen days from the postmark date on the bill before the due date of the bill. However, the appropriateness of fourteen days needs to be assessed in terms of the current economic crisis in the state. Ohioans are clearly struggling to pay utility bills and a recent NARUC study revealed that over 50% the energy customers in the state are unable to make all payments on time within a year.¹⁴ Unemployment levels in Ohio were 9.7% for March 2009 and the numbers are rising.¹⁵

Some companies actually compute the late payment charge beginning on the fifteenth day from the postmarked date. However, some utilities (e.g. DEO and COH) offer some relief by not assessing late payment charges if the customer's bill is paid, in

¹⁴ <http://www.naruc.org/Publications/2008%20NARUC%20Collections%20Survey%20Report.pdf> 2008 Individual State Report by the NARUC Consumer Affairs Subcommittee on Collections Data Gathering, NARUC Consumer Affairs Committee, November 11, 2008.

¹⁵ <http://jfs.ohio.gov/RELEASES/unemp/200904/UnempPressRelease.asp>.

full, by the time the next bill generates.¹⁶ The Commission should establish consistency through its rules in how gas or natural gas companies calculates its late payment charges. This approach helps provide customers with a few more days to pay their bills without being penalized by an onerous interpretation of the late payment charges. OCC recommends that the DEO and COH methodology for collecting late payment charges be the standard for the industry and offers the following proposed rule change.

- (C) All bills shall be due no earlier than fourteen days from the date of the postmark on the bill. If the bill is sent electronically, the bill shall not be due earlier than fourteen days from the date of the electronic postmark on the bill. Any late payment charge must be authorized by the Commission and included in the company tariff and shall not be assessed if payment is received by the company by the time the next bill generates. If the bill is mailed by means that does not place a postmark on the bill (i.e. such as permit mailing), the bill shall not be due earlier than fourteen days from the date on the actual bill. All bills mailed without postmarks shall be mailed no later than the day listed on the bill.

4901:1-13-11(E)

The Staff proposed changes to the rules that include a new requirement that if a gas or natural gas company accepts payments from customers via authorized agents, the company is required to provide signage with logo's or other appropriate indicators, that affirm the payment location as an authorized agent. Joint Advocates support this requirement as a way to help better inform the public about the differences between authorized agents and unauthorized bill payment centers. However, the Staff should have also included requirements for utilities to make available for consumers the locations of authorized agents on both their website and telephonically. This information is helpful

¹⁶ Columbia Gas of Ohio, Second Revised Sheet No.13(d).

for consumers who may not be able to call the company for a list of authorized agents during non business-hours. The proposed language is added as follows:

(E) Payment methodologies and parameters

- (1) Each gas or natural gas company shall make payment options available in a number of ways. Those ways may include, but are not limited to: cash, check or money order payments in person to the company or a payment agent; check or money order through the mail; check over the telephone; credit card; or electronic money transfers. Each gas or natural gas company shall, upon request, provide customers with an updated list of its available payment options and descriptions thereof. The list shall also include the name and street address/location of the nearest payment center and/or local authorized agent, and all applicable fees for utilizing the various methods available for payment of customer bills. Such information shall be available telephonically and via the company's website. If a gas or natural gas company accepts payments from customers via authorized agents, the company shall provide signage to the authorized agent with its logo, or other appropriate indicators, that affirm the payment location as an authorized agent of the gas or natural gas company. The gas or natural gas company may not deny a customer the use of one or more of the payment options solely because the customer's account is in arrears.

The PUCO Staff has also proposed an increase in the fees that can be charged for making payment at an authorized agent to \$2.00 instead of the current two times the cost of a first class stamp. This is an increase to rates that the four largest natural gas utilities in Ohio did not ask for in their most recent distribution rate cases. Furthermore, this rate increase has not been justified by the Staff to determine if there would be an over-recovery of costs or what the impact on customers would be. A doubling of the fee for making payment at authorized agents was not justified by the Staff, nor is the increase appropriate. Utilities closed their payment centers, as a cost savings mechanism, which were locations that customers previously could utilize to pay utility bills in person and

without incurring extra charges. The existing \$.88 charge for paying natural gas bills was excessive and at the proposed \$2.00 this is even worse for consumers.

Natural gas customers are struggling to pay their utility bills and this is having a profound impact on state disconnection rates and on the uncollectible debt riders.¹⁷ For the twelve months that ended March 2009, there was a 26% increase¹⁸ in the number of disconnections for natural gas customers compared with the same period last year. Joint Advocates recommend that the fee for making payments at authorized agents be eliminated.

The proposed rules establish a requirement that customers may be assessed charges for making payments through check over the phone, credit card, or through electronic funds transfer. The rules further state that the Commission will evaluate such charges; however, there is not a requirement that the charges must be approved by the Commission. The charges for paying bills through authorized agents, credit card, or various electronic means can result in utilities being more unaffordable and might contribute to more customers being disconnected for non-payment. The costs for paying the natural gas bill through credit card and electronic funds transfer should be reviewed by the Commission to ensure the additional charges are appropriate and that there is some level of consistency in how these charges are being assessed. Furthermore, the charges for payment of bills should be approved by the Commission and included in the company tariff.

- (2) Each gas or natural gas company shall not charge ~~more than two dollars~~ for processing payments by cash, check, or money order at

¹⁷ In the Matter of the Five-Year Review of Natural Gas Company Uncollectible Riders, Case No. 08-1229-GA-COI, OCC Initial Comments, March 23, 2009, at 7.

¹⁸ Ohio Statistic Customer Account Receivable (“OSCAR”) data.

authorized agent locations. Customers may not be charged for processing their payments by check or money order through the mail. Customers may be charged for processing their payments by check over the telephone, by credit card, or electronic money transfers and such charges will be evaluated and approved by the commission and included within the gas or natural gas company's tariff.

The proposed rules require payments that are made to a company business office or to an authorized agent to post to the account immediately if feasible, or least on the same day the payment is made. Customers who pay utility bills at authorized agents and are facing disconnection are routinely advised to call the company after the payment is made so that the account can be updated. Payments made by electronic check or money order over the telephone, credit card, or electronically must post within two business days of when the payment is received by the company. This requirement allows excessive delay that can be a detriment to the customer's ability to pay bills by the due date, avoid deposits, late payment charges, obtain PIPP arrearage credits, or prevent disconnection of natural gas services. Payments made to the company, regardless if they are made via U.S. Mail, authorized agents of the company, through credit card or electronic funds transfer, or agents of the company, should post to the account immediately when the payment is received by the gas or natural gas company.

- (3) When a customer pays the bill at the gas or natural gas company's business office or to an authorized agent of the company, the payment, including any partial payment, shall be immediately credited to the customer's account. ~~where feasible, and, in any event, be credited to the customer's account as of the date received at the business office or by the agent.~~ When a customer pays the bill by check or money order through the mail, by check over the telephone, by credit card, or electronically, the customer's payment shall be credited immediately to the customer's account upon receipt by the gas or natural gas company. ~~where feasible and, in any event, within two business days of receipt at the gas or natural gas company's business office.~~

- (5) Each gas or natural gas company shall establish a written policy for its personnel at its business offices and for its authorized agents to handle billing disputes, requests for payment arrangements, and for the reporting of payments made by customers due to their receipt of a disconnection notice, in order to prevent disconnection of service. If such matters cannot be handled by an agent authorized to accept payments, the agent shall provide customers with the gas or natural gas company's local or toll-free number.

4901:1-13-11(F)

The rules appropriately recognize that many customers may want electronic bills and establishes requirements on those gas companies that offer electronic billing, payments, and payment posting. The rules ban customers from being assessed an enrollment or usage fee to obtain electronic bills. Staff recognizes that the utilities incur a savings by sending bills electronically and an additional fee to receive the bill electronically would be inappropriate. However, the rules do not ban gas companies from charging customers a fee to make electronic payments. The rules merely require that the additional fee must be "clearly disclosed". Joint Advocates contend that separate fees to accept electronic payments are inappropriate. Joint Advocates recommend that the rule be modified to ban natural gas companies from assessing charges for receiving electronic payments.

- (F) Any gas or natural gas company that issues billing statements electronically shall comply with each of the following requirements:

...

- (5) No Any fees shall be assessed to the customer for to the gas or natural gas company accepting electronic payments from the customer. ~~shall be clearly disclosed in payment window(s).~~

- (6) Any payment made electronically shall be treated as a payment made at the company business office and shall be posted immediately to the account. ~~in accordance with paragraph (E)(3) of this rule. The time needed to post the payment to the account shall be clearly stated.~~

4901:1-13-12 Consumer safeguards and information.

4901:1-13-12(B)

The rules provide a right for Staff to review and request modifications for informational, promotional, and educational materials. To the extent that the materials involve residential customers, OCC should be afforded the right to review and request modification of materials. This requirement is consistent with the statutory responsibility of OCC in representing residential consumer interests.¹⁹ The Commission should amend the rule as follows:

- (B) The commission staff may review and/or request modification of informational, promotional, and educational materials. To the extent that materials are being generated for use by residential consumers, OCC shall be provided copies of such informational, promotional, and educational materials, for review and to request modification, prior to distribution to public.

4901:1-13-12(D)

The proposed rules enable natural gas companies to share customer social security numbers with competitive suppliers and government aggregators without consent for the purposes of collections and/or credit reporting. Because the majority of the collection activity is undertaken by the natural gas company, and not the supplier or aggregator, it is appropriate to limit the disclosure of social security numbers, without the customer's consent, to those situations where the supplier or aggregator are performing collections. Joint Advocates recommend the following change in the rule:

¹⁹ Ohio Revised Code Chapter 4911.

(D) Customer-specific information.

- (2) Except as otherwise provided in rule 4901:1-29-09 of the Administrative Code, a gas or natural gas company shall not disclose a customer's social security number without the customer's written consent or without a court order, except for the following purposes:
 - (a) Completing a customer credit evaluation.
 - (b) Collections and/or credit reporting activities by a gas or natural gas company, or a competitive retail natural gas supplier, or a governmental aggregator if the supplier or aggregator is responsible for collections.
 - (c) Participation in the home energy assistance program, the emergency home energy assistance program, and the percentage of income payment plan programs.

The gas or natural gas company must use the consent form described in this rule.

4901:1-12(E)

The rules provide consumers the right to request up to 12 months of usage history and 24 months of payment history. Customers who are requesting usage history may have a need for comparing usage patterns over a much longer period of time. This may be necessary for understanding the household energy profile and to assess the effectiveness of changes made to the property. Customers should be able to request at least thirty-six months of usage information from the company consistent with the changes proposed for Ohio Adm. Code 4901:1-13-03. Payment information may also be needed for a period of time longer than 24 months. Reconciling bills and payments can be tedious and customers may have needs extending at least thirty-six months as contemplated by other records retention requirements. Joint Advocates recommend the rules be modified as follows:

- (E) Upon customer request, a gas or natural gas company shall timely provide thirty- six ~~twelve~~ months of a customer's usage history and thirty-six ~~twenty-four~~ months of a customer's payment history to the customer.

IV. ALTERNATIVE BILL FORMATS

In previous cases including the last MGSS review in 2005, OCC addressed the issue of alternative bill formats.²⁰ OCC has advocated for large print and Braille formats for natural gas utility customers who have vision impairments. OCC pointed out that some natural gas utilities in the state of Ohio have recognized this need as legitimate. Duke Energy Ohio, Inc. ("Duke") and Dominion East Ohio ("DEO") have both made large print billing statements available to their customers with visual impairment.²¹ Duke also offers a bill format in Braille for their sightless customers.²² The recognition of these customer needs by Duke and DEO demonstrates the legitimacy of the needs, and should encourage the Commission to standardize the requirement for all natural gas companies in Ohio in these rules.

The need for these formats is well documented by the visually impaired community's involvement in previous cases. Yet, their concerns have been largely ignored.

A. Large Print Formats.

The Commission should listen to the needs of this segment of the population and take the necessary steps to provide the visually impaired with the services they need to

²⁰ *In the Matter of the Amendment of Chapter 4901:1-13, Ohio Administrative Code to Establish Minimum Gas Service Standards*, Case No. 05-602-GA-ORD, Initial Comments by the Office of the Ohio Consumers' Counsel at 16-25 (July 27, 2005).

²¹ *Id.* at 16.

²² *Id.*

live independent lives. OCC suggests that specific large print guidelines established by the National Council for the Blind be used as a guideline.²³

The Commission should require all natural gas companies in Ohio to offer a large print bill as well as customer notices (i.e. Disconnect notices) in a format that meets the above guidelines. The Commission should also require the natural gas companies to inform their customers of the large print format, when this format option becomes available to its visually impaired customers. There should be an information campaign to alert customers to the existence and availability of the large print format. The PUCO Staff, OCC, and other interested parties should have an opportunity to discuss the outreach and education plan and also an opportunity to file comments with the Commission, as needed.

B. Braille Format.

The American Council of the Blind provides that: “there are approximately 8 million Americans with a visual impairment who have difficulty reading or are unable to read letters in large print * * *. Approximately 1.5 million people within this group are considered to be legally blind, and this population is the primary audience for whom alternate format publications are intended.

While there may be other mediums and new technologies available to aid the blind, Braille remains an integral education tool when developing individualized education programs required for any student with a visual disability in Ohio.²⁴

The Commission should require the natural gas companies to take necessary steps

²³ Id. at 19-20.

²⁴ R.C 3323.011(A).

to make their billing statements and other customer notices (i.e. disconnection notices) available in Braille. Prior to the Braille format becoming available, the Company in conjunction with the PUCO's Staff and the OCC, should develop a customer information program to make certain that appropriate efforts are taken to notify these customers of the availability of the Braille billing format.

C. Second Language.

Given the diversity of Ohioans, it becomes imperative for natural gas companies to bridge language barriers in their communications with customers. OCC is advocating for all gas utilities in Ohio to subscribe to an interpreter service and make it available to their customers who cannot speak or read English. The interpreter service that the Commission should require does involve an outside service utilized by the natural gas utilities in order to establish meaningful communications with a customer who does not speak English by including an interpreter in a three-way call with the utility's phone center representative and the customer. The legitimacy of such a service can be demonstrated by the fact that DEO, COH, Duke Energy and Vectren all subscribe to such a service. These companies are to be commended for making the interpreter service available, however it would be just and reasonable for the Commission to require these companies to heighten consumer awareness of this service, and improve the ease and efficiency by which the non-English speaking customers are put into contact with the interpreter service.

V. ENFORCEMENT RULES

The Commission's Staff has erred in neglecting to seek comment on Ohio Adm. Code 4901:1-34, the Chapter which contains the enforcement provisions for violations of

the MGSS in Ohio Adm. Code 4901:1-13. The chapter roughly mirrors Ohio Adm. Code 4901:1-23, which sets forth enforcement provisions for the Electric Service and Safety Standards (“ESSS”). Joint Advocates recently provided comments and reply comments as part of the ESSS rulemaking proceeding, including extensive recommendations for amending and improving Ohio Adm. Code 4901:1-23.²⁵ The Commission should accept OCC’s comments on the enforcement provisions applied to the MGSS in the current proceeding as well.

The Commission’s rules, contained in Ohio Adm. Code 4901:1-34 governing noncompliance with the Minimum Gas Service Standards in Ohio Adm. Code 4901:1-13, are redundant and in certain instances contrary to Ohio law.

The existing provisions of Ohio Adm. 4901:1-34 are confusing and, in some instances, contrary to Ohio law. The Chapter purports to govern Commission proceedings to, among other things, “Investigate and determine a natural gas company’s * * * compliance with Chapters 4901:1-13 * * * and commission orders issued thereunder.”²⁶ The rules also seek to govern the terms under which the Commission shall review settlements between the PUCO Staff and natural gas companies,²⁷ issue and enforce compliance orders,²⁸ and assess forfeitures.²⁹ There are existing statutes which adequately address these issues. For instance, existing Ohio law already requires that

²⁵ *In the Matter of the Commission’s Review of Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-24, and 4901:1-15 of the Ohio Administrative Code*, Case No. 06-653-EL-ORD, Comments by the Ohio Consumer and Environmental Advocates at 154-156 (August 12, 2008) (OSLSA represented APAC in this proceeding) .

²⁶ Ohio Adm. Code 4901:1-34-02(B)(1).

²⁷ Ohio Adm. Code 4901:1-34-02(B)(2).

²⁸ Ohio Adm. Code 4901:1-34-02(B)(3).

²⁹ Ohio Adm. Code 4901:1-34-02(B)(4).

natural gas companies must follow Commission rules and orders while providing for the assessment of forfeitures for noncompliance with the Commission rules and orders:

Every public utility * * * shall *comply with every order, direction, and requirement* of the public utilities commission * * * [t]he public utilities commission *may assess a forfeiture of not more than ten thousand dollars* for each violation or failure against a public utility * * * or that after due notice fails to comply with an order * * * of the commission * * *. Each day's continuance of the violation or failure is a separate offense.³⁰

(Emphasis added). In addition, R.C. 4905.54 permits a maximum assessment of ten thousand dollars per violation as opposed to the one thousand dollar limit contained in Ohio Adm. Code 4901:1-34-05(B), Ohio Adm. Code 4901:1-34-05(D), Ohio Adm. Code 4901:1-34-08(A)(1) and (B)(1). The provisions in the rules regarding the amount of forfeitures are in conflict with Ohio law and should be modified or eliminated.

Additionally, the Commission has existing criteria for reviewing settlements. The criteria set forth in these rules for the Commission to consider in approving a settlement between the PUCO Staff and a natural gas company, a retail natural gas supplier, or governmental aggregator fall far short of those criteria.³¹ There are additional inconsistencies within Ohio Adm. Code 4901:1-34 which make the rules unreasonable and unlawful. The Commission should either eliminate this Chapter or substantially amend the rules to ensure greater transparency and eliminate conflicts with Ohio law.

³⁰ R.C. 4905.54.

³¹ The deficient criteria from this Chapter are set forth in Ohio Adm. Code 4901:1-34-05.

Comments on Specific Enforcement Rules

4901:1-34-02 Purpose and scope.

As noted above, and in comments on specific rules, Joint Advocates note that the purpose and scope of these enforcement rules is overly broad and, in some instances, contrary to Ohio law. The purpose and scope of these rules should be narrowed considerably and reconsidered in light of the rules' inconsistencies.

* * *

(B) This chapter also governs proceedings of the commission to:

- (1) Investigate and determine a natural gas company's, retail natural gas supplier's, or governmental aggregator's compliance with Chapters 4901:1-13, 4901:1-27 and 4901:1-29 of the Administrative Code, and commission orders issued thereunder.
- ~~(2) Review settlement agreements and approve stipulations by the staff and the natural gas company, retail natural gas supplier, or governmental aggregator.~~
- ~~(3) Issue and enforce compliance orders.~~
- ~~(4) Assess forfeitures.~~

* * *

4901:1-34-03 Staff notice of probable noncompliance, proposed corrective action, and proposed forfeiture.

Ohio Adm. Code 4901:1-34-03(A) states that subsequent to "an inspection, investigation, or complaint" a staff notice of probable noncompliance may be issued. The rules in Ohio Adm. Code 4901:1-34, however, fail to define the terms "inspection", "investigation", or "complaint". The terms need to be defined in order for the scope of the rules to be properly understood. Only the Commission and the PUCO Staff know what action(s) constitutes an inspection or investigation. Additionally, the rules fail to

specify whether the term “complaint” applies to informal complaints received by the Commission’s Service Monitoring and Enforcement (“SMED”) or if the term refers only to formal complaints filed at the Commission. Definitions of these terms are crucial in order for the rules to promote transparency.

Finally, should the Commission Staff issue a notice of probable noncompliance it stands to reason that the notice should include proposed corrective actions and/or proposed forfeitures. The inclusion of these elements must be mandatory for the notice to be effective.

- (A) After an inspection, investigation, or complaint, a staff notice of probable noncompliance may be issued. The staff notice of probable noncompliance ~~may~~ shall be issued with a proposed corrective action and/or a proposed forfeiture.

* * *

The provisions of Ohio Adm. Code 4901:1-34-04 regarding service are redundant and should be eliminated or clarified to mirror the Commission’s existing procedural rules.

The Commission’s procedural rules contain clear and adequate rules regarding service of pleadings and other papers in Ohio Adm. Code 4901-1-05. In the event the Commission otherwise retains portions of existing Ohio Adm. Code 4901:1-34, the Chapter should be modified to simply mirror the Commission’s existing procedural rules regarding service. The Commission apparently recognized that the Commission’s procedural rules were applicable to this Chapter with the adoption of Ohio Adm. Code 4901:1-34-06(B) which states that proceedings should be conducted in accordance with Ohio Adm. Code 4901-1. It follows that the rule regarding service in Ohio Adm. Code 4901-1-05 should be followed in proceedings under this Chapter.

4901:1-34-05 Settlement agreements and stipulations

Ohio Adm. Code 4901:1-34-05 sets forth terms and conditions for the Commission's consideration of settlements between the PUCO Staff and "a natural gas company, a retail natural gas supplier, or governmental aggregator."³² The standard of review for consideration of a stipulation has been discussed in a number of Commission cases and by the Ohio Supreme Court.³³

Among other places, the Ohio Supreme Court has addressed its review of stipulations in *Consumers Counsel v. Pub. Util. Comm.*, (1992), 64 Ohio St. 3d 123, 125 ("Consumers' Counsel 1992"). Citing *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St.2d 155, 157, the Ohio Supreme Court stated in *Consumers' Counsel 1992* that:

The Commission, of course, is not bound to the terms of any stipulation; however, such terms are properly accorded substantial weight. Likewise, the commission is not bound by the findings of its staff. Nevertheless, those findings are the result of detailed investigations and are entitled to careful consideration.

In *Duff v. Pub. Util. Comm.* (1978), . . . in which several of the appellants challenged the correctness of a stipulation, we stated:

A stipulation entered into by the parties present at a commission hearing is merely a recommendation made to the commission and is in no sense legally binding upon the commission. The commission may take the stipulation into consideration, but must determine what is just and reasonable from the evidence presented at the hearing.³⁴

³² Ohio Adm. Code 4901:1-34-05(A).

³³ See, e.g., *CG&E ETP Case*, PUCO Case No. 99-1212-EL-ETP, et al., at 65 (July 19, 2000).

³⁴ *Consumers' Counsel 1992* at 125.

The Court in *Consumers' Counsel 1992* considered whether a just and reasonable result was achieved with reference to criteria adopted by the Commission in evaluating settlements:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
2. Does the settlement, as a package, benefit ratepayers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?³⁵

Joint Advocates submit that the rule's requirement that the Commission must accept the terms of the stipulation if a forfeiture below a certain dollar amount is agreed to between the PUCO Staff is contrary to Ohio law and Commission precedent as noted above.

The rule, as currently written, does not provide for the inclusion of interested parties in the settlement process. Diversity of interests is an important component to assure that a stipulation is reasonable. The Commission has found that the presence of a diversity of interests provides strong support for the reasonableness of a settlement package.³⁶ The settlement provisions set forth in the rule, therefore, violate important regulatory oversight policies and practices. Ohio Adm. Code 4901:1-34-05 provides for no public input and, in fact, requires the Commission to accept stipulations as is, without determining whether the settlement benefits customers and the public interest.

Ohio Adm. Code 4901:1-34-05 provides for actions the Commission shall take regarding stipulations between the PUCO Staff and parties found to be in violation of certain Commission rules. The rule, however, does not designate that violations of the

³⁵ Id. at 126.

³⁶ *In re Restatement of Accounts and Records of CG&E, DP&L, and CSOE*, Case No. 84-1187-EL-UNC, Order at 7 (November 26, 1985).

MGSS, Ohio Adm. Code 4901:1-13, may give rise to certain settlements or stipulations. Perhaps the exclusion of Ohio Adm. Code 4901:1-13 from this rule is intentional. OCC, however, believes that the exclusion of MGSS from this rule is an oversight and should be corrected by the Commission. OCC has corrected this oversight and amended the rule so that violations of the MGSS are covered by Ohio Adm. Code 4901:1-34-05.

Ohio Adm. Code 4901:1-34-05(B) and (D) set forth maximum forfeiture amounts which are in conflict with R.C. 4905.54.³⁷ OCC has edited (B) to make it consistent with Ohio law.

OCC had deleted Ohio Adm. Code 4901:1-34-06(D) in its entirety. It is unreasonable to attempt to limit the scope of the Commission's regulatory oversight simply because a company has corrected a rule violation and/or paid a forfeiture. The PUCO Staff lacks authority to determine where the Commission's authority begins and ends. Furthermore, the rule does not explain how the Commission can accept a forfeiture of more than one thousand dollars in the absence of a settlement agreement. Paragraph (D) unlawfully limits the powers of the Commission and should be stricken.

- (A) If staff and the natural gas company, retail natural gas supplier, or governmental aggregator reach agreement regarding any of the following: the violation of a rule within this chapter, or Chapter 4901:1-13, Chapter 4901:1-27 or 4901:1-29 of the Administrative Code, the violation of any provision of Chapter 4929 of the Revised Code, the violation of a commission order; a proposed corrective action or remedy; or the amount of a forfeiture or other payment, the agreement must be reduced to writing in a settlement agreement. Such agreement shall be signed by an officer of the company or its attorney and the assistant attorney general who serves as legal counsel for the commission staff. Except as otherwise provided in

³⁷ R.C. 4905.54 sets the forfeiture amount at ten thousand dollars per violation.

paragraph (B) of this rule, the settlement agreement shall not be effective until:

* * *

- (B) If the settlement agreement provides for the payment of a forfeiture or other payment by a natural gas company or retail natural gas supplier of ~~one~~ ten thousand dollars or less, the agreement shall be accepted by the commission and fully enforceable upon the natural gas company or retail natural gas supplier upon its execution.

* * *

- ~~(D) Where a natural gas company or retail natural gas supplier has demonstrated to the staff's satisfaction, as confirmed in writing from the commission's director of the service monitoring and enforcement department or the director of utilities department or his/her designee, that the violation(s) listed in the staff notice (or amended staff notice) of probable noncompliance or investigative report has been corrected and where the company submits full payment of the proposed forfeiture prior to the execution of a written settlement agreement or final commission order, the violation(s) listed in such staff notice of probable noncompliance shall only be considered by the commission as part of the company's history of violations in determining the appropriate forfeiture or corrective action for any future violation. If a company pays a proposed forfeiture of more than one thousand dollars without executing a written settlement agreement, the payment shall be fully effective when approved by and made the order of the commission.~~

4901:1-34-06 Commission proceedings.

The provisions of 4901:1-34-06(D) of the rule should be combined with the provisions of Section A of the rule. Ohio Adm. Code 4901:1-34-06(A) explicitly states that the Commission “may” initiate a proceeding “after an incident has occurred, after a complaint is filed pursuant to section 4905.26 of the Revised Code, or after a staff notice of probable noncompliance is served.” Ohio Adm. Code 4901:1-34-05(D), however, provides that the Commission “*shall* hold an evidentiary hearing on all proceedings

initiated under this rule.” (Emphasis added). The Commission should, therefore, initiate an evidentiary hearing for enforcement actions taken in accordance with the Ohio Adm. Code 4901:1-34-06(A) The provisions of this section should also apply to complaints filed by OCC and other parties as well as “after incidents have occurred”, which are brought to the attention of the Commission by OCC and other parties. A Staff notice of probable noncompliance can clearly jumpstart the enforcement process but should not foreclose public notice and involvement.

More importantly, Ohio Adm. Code 4901:1-34-06(A) essentially mirrors existing Ohio law:

Upon complaint in writing against any public utility * * * or upon the initiative or complaint of the public utilities commission, that any * * * service rendered, * * * is in any respect unjust, unreasonable, unjustly discriminatory * * * or in violation of law, * * * or that any service is, or will be, inadequate * * * if it appears that reasonable grounds for complaint are stated, the commission shall fix a time for hearing and shall notify complainants and the public utility thereof.³⁸

This section is redundant in regards to Ohio law and paragraph (D) of the rule and should be eliminated. The strength of this rule lies in the fact that the Commission is required to hold an evidentiary on “all proceedings initiated under this rule.”

- (A) The commission may initiate an evidentiary hearing upon its own initiative, after an incident has occurred, after a complaint is filed pursuant to section 4905.26 of the Revised Code, or after a staff notice of probable noncompliance is served. The hearing shall include evidence on the issues of proposed corrective action, compliance orders issued by the commission, forfeitures, enforcement of a commission order, and other remedies.

³⁸ R.C. 4905.26.

- (B) The commission shall conduct such compliance or other proceeding in accordance with Chapter 4901-1 of the Administrative Code.

* * *

- ~~(D) The commission shall hold an evidentiary hearing on all proceedings initiated under this rule. The hearing may shall include evidence on the issues of proposed corrective action, compliance orders issued by the commission, forfeitures, enforcement of a commission order, and other remedies.~~

* * *

- (E)(2) May assess forfeitures upon a natural gas company or retail natural gas supplier of not more than ~~one~~ ten thousand dollars for each day of each violation. Each day's continuance of the violation is a separate offense.

* * *

4901:1-34-08 Noncompliance with rules or orders.

The forfeiture amounts have been modified by Joint Advocates to be consistent with R.C. 4905.54.

- (A) Any natural gas company or retail natural gas supplier that fails to comply with the rules and standards in Chapters 4901:1-13, 4901:1-27, 4901:1-29 and 4901:1-34 of the Administrative Code or commission order adopted thereunder may, after opportunity for hearing, be subject to any and all of the following available under the law, including but not limited to:

- (1) Forfeiture to the state of not more than ten ~~one~~-thousand dollars for each such failure. Each day's continuance of the violation is a separate offense.

* * *

- (B) Any natural gas company that fails to comply with division (D) of section 4929.20 or division (C) of section 4929.29 of the Revised Code, may be subject to any and all of the following available under the law, including but not limited to:

- (1) Forfeiture to the state of not more than ~~ten~~ one thousand dollars for each such failure. Each day's continuance of the violation is a separate offense.

* * *

The Commission's existing rules governing consequences for noncompliance with the Minimum Gas Service Standards provide little transparency and limited or no opportunity for public input.

The enforcement or compliance efforts that the PUCO Staff is undertaking regarding the performance of natural gas companies should be publicly available. OCC has previously requested that Staff-issued notices of probable noncompliance be docketed, in support of greater transparency regarding the Commission's enforcement.³⁹ The after-the-fact availability of *public records* does not adequately serve the public interest. (Emphasis added).

Neither the Commission nor the public benefits from the lack of insight and perspective when the information that drives an enforcement process is closed to everyone but the Staff. A closed process that may result in the simultaneous opening of a case and immediate settlement of the case through the filing of a stipulation between the Staff and the utility limits the information that should instead be available to the public about the issue in advance and excludes from the process others who have an interest.

VI. CONCLUSION

Joint Advocates appreciate the opportunity to provide comments on the Staff-proposed Minimum Gas Service Standards. When these standards were implemented

³⁹ *In the Matter of the Commission's Promulgation of Rules for Minimum Competitive Retail Electric Service Standards Pursuant to Chapter 4928, Revised Code*, Case no. 99-1611-EL-ORD, Finding and Order (April 6, 2000) at 36. While the cited proceeding concerns compliance with electric rules, the same argument applies to the enforcement of the MGSS.

earlier this decade, there was concern about imposing standards that would be difficult and/or expensive for the industry to implement. Trade-offs in consumer protections were made in order for the Commission to establish baseline natural gas service. Given the experience the Commission now has in enforcing natural gas standards, now is an appropriate time to assure that the rules strike a reasonable balance between the needs of consumers and the natural gas companies that serve them. Requirements such as having customers wait five days to utilities to initiate service during the winter months, when there are no facility changes needed, are inappropriate and need to be changed. Having standards for service appointments without any consequences should a natural gas company fail to meet the appointment disserves Ohio customers that need protection that should be provided by the PUCO.

Although the enforcement rules, Ohio Adm. Code 4901:1-34, were not contemplated as part of the MGSS rules review, Joint Advocates offers comments and changes to these rules at this time for the Commission's consideration. It would seem to be appropriate to review enforcement provisions in conjunction with the review of the rules establishing the standards being enforced. Therefore, the Commission should consider Joint Advocates comments on the enforcement provisions applied to the MGSS in the current proceeding.

Demographics are changing continually in Ohio and the natural gas industry needs to be responsive to the changes in the population age, special needs, and language restrictions by adapting improved services for these customers, through large print and Braille bill formats.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Joint Initial Comments by the Office of the Ohio Consumers' Counsel and Ohio State Legal Services Association* was electronically filed at the Public Utilities Commission of Ohio on May 22, 2009 and will be served on May 26, 2009, by electronic service upon the parties who also file comments in this docket.

/s/ Larry S. Sauer

Larry S. Sauer

Assistant Consumers' Counsel

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