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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Eastern Natural Gas Company for)
Approval of an Alternative Rate Plan) Case No. 08-940-GA-ALT
Proposing a Revenue Decoupling)
Mechanism.)

**OBJECTIONS TO THE PUCO STAFF'S REPORT
OF INVESTIGATION
AND
SUMMARY OF MAJOR ISSUES
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Pursuant to R.C. 4909.19 and Ohio Adm. Code 4901-1-28(B), the Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in this case, hereby submits to the Public Utilities Commission of Ohio ("Commission" or "PUCO") these objections to the PUCO Staff's Report of Investigation ("Staff Report"), as filed on July 24, 2009 in this docket concerning the Application of Eastern Natural Gas Company ("Eastern" or "Company") to implement a Straight Fixed Variable ("SFV") rate design for its residential gas service customers in Ohio. Eastern also requested a Main Line Replacement Program. OCC is the representative for all of the approximately 6,700 residential customers of Eastern.

OCC submits that these objections meet the specificity requirement of Ohio Adm. Code 4901-1-28. OCC's objections point to matters in the Staff Report, where the PUCO

Staff fails to recommend against or actively supports rates or service terms that contravene what is reasonable and lawful for Eastern's residential consumers.

OCC reserves the right to amend and/or supplement its objections in the event that the PUCO Staff changes, modifies, or withdraws its position, at any time prior to the closing of the record, on any issue addressed in the Staff Report. Additionally, where the PUCO Staff has indicated that its position on a particular issue is not known at the date of the Staff Report, OCC reserves the right to later supplement its objections once the PUCO Staff's position is made known. Moreover, OCC also submits that the lack of an objection in this pleading to any aspect of the Staff Report does not preclude OCC from cross-examining or introducing evidence or argument in regard to issues on which the PUCO Staff changes, modifies, or withdraws its position on any issue contained in the Staff Report.

Pursuant to R.C. 4903.083, OCC submits a "Summary of Major Issues" that outlines the major issues to be determined in this proceeding. OCC respectfully requests that these issues be included in the notices of the local public hearings in accordance with R.C. 4903.083, to satisfy the General Assembly's intent that the local public hearings be transparent opportunities for the public's participation in the state's regulatory process.

OBJECTIONS TO THE STAFF REPORT

I. SFV Rate Design

- A. OCC objects to the PUCO Staff's recommendation of a rate structure primarily based on a fixed distribution service charge, or Straight Fixed Variable ("SFV") rate design. The Staff unreasonably strayed from the long-standing, and more appropriate, rate structure of a minimal customer charge (presently \$7.50 per month, or alternatively a lower fixed customer charge which would further encourage conservation) and a volumetric rate or blocks of rates. Moreover, the Staff Report recommendation for the SFV rate design is contrary to the principles of gradualism that have long guided the Staff and PUCO in rate design matters. The significant increases in the customer charge violate the principle of guarding against rate shock for customers.
- B. OCC objects because the Staff's SFV rate design sends an improper price signal to the consumer, fails to encourage customer-initiated conservation, and adversely affects the Company's and its customers' energy efficiency efforts. A secondary disadvantage for customers is that the fixed charge structure reduces their incentive to reduce their usage of natural gas.

- C. OCC objects because the Staff's recommendation also ignores the option of implementing a decoupling mechanism instead of the SFV rate design. A decoupling mechanism would more fairly address the issue of potential loss of weather-normalized average usage per customer because a decoupling mechanism would annually true-up any variances from the weather-normalized average usage per customer. Because the annual true-up could result in either an additional charge or a credit for customers it provides a more balanced and fair alternative to the SFV rate design. The SFV rate design only operates in favor of the utility and thus shifts the risk of under-recovery of revenues from the Company to customers, especially in this case without any accompanying reduction in rate of return or return on equity. OCC objects that the SFV as recommended by the Staff has no mechanism to review or refund to customers any over collections by the Company.
- D. OCC objects because the PUCO Staff's recommendation to implement the SFV rate design will result in *guaranteeing* the utility's collection of distribution service revenues from customers when the PUCO instead should be giving utility investors no more than the traditional *opportunity* for the utility's collection of revenues from customers.

- E. OCC objects to the PUCO Staff's failure to reduce the Company's authorized rate of return and return on equity to reflect the Company's reduced risk of under-recovery of revenues.
- F. OCC objects to the Staff's recommendation of SFV rate design for the Residential and General Service customer classes without any corroborating evidence as to why this rate design is necessary or is just and reasonable. Switching to a straight fixed variable rate design is a break from Commission policy and precedent and is not justified in this case.
- G. OCC objects to the Staff's move toward a rate design for residential customers' that is primarily based on a fixed customer charge with little emphasis upon a variable commodity rate for distribution service.
- H. OCC objects that the PUCO Staff's proposal is contrary to the State policy of conservation as noted in R.C. 4929.02 (A)(4) and R.C. 4905.70, because the SFV rate design encourages increased usage since it reduces the total per unit cost of natural gas. OCC objects to the Staff's failure to recommend a decoupling mechanism that uses an annual true-up to properly balance the interests and needs of consumers and the Company.
- I. OCC objects that the Staff failed to recommend that customer funding of administrative expenses and advertising/educational expenses associated with comprehensive energy efficiency

programs should be determined in a demand-side management (“DSM”) stakeholder process.

- J. OCC objects that the Staff failed to recommend that administrative expenses and advertising/educational expenses should not exceed, in total, 20% of the DSM program cost, unless otherwise modified for a specific program by the DSM stakeholder group. This condition was implemented in the recent Columbia Gas of Ohio DSM filing.¹

SUMMARY OF MAJOR ISSUES

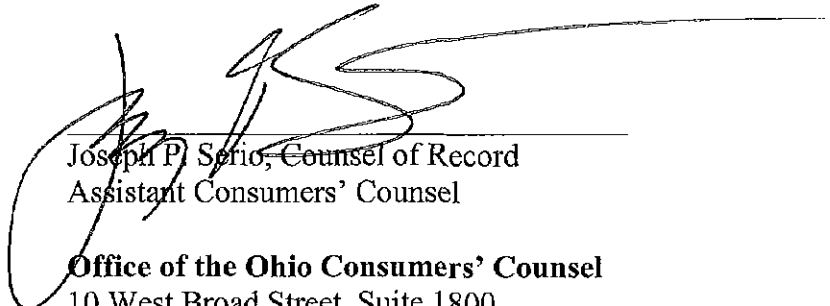
R.C. 4903.083 requires that, with regard to the scheduling of local public hearings, the Commission must list in the notice to customers “a brief summary of the then known major issues in contention...” by the parties. For this notice the Commission should include the major issues in a form that is understandable and accurate for customers. Scheduling local public hearings prior to the filing of objections to the Staff Report and Summary of Major Issues denies consumers the opportunity to be educated in the major issues in a case at the time when they make the decision on whether to attend and participate in a local public hearing. To accomplish the General Assembly’s objective to notify customers of their opportunity to participate in hearings, the Commission should include the following in the notice, with reference as well to the differing positions of parties:

¹ Application of COH to establish DSM programs for residential and commercial customers, Case No. 08-0833-GA-UNC page 10 (July 1, 2008).

1. What is the amount of the increase, and the total amount of the fixed portion of the fixed monthly customer charge (a charge that is independent of how much gas is used) that Eastern's residential customers have to pay for gas distribution service.
2. Would the PUCO's design of Eastern's rates encourage or discourage conservation by customers?
3. Would proposed increases in Eastern's rates be implemented in a gradual way or would the increase to the fixed portion of the customer charge subject customers to rate shock?
4. Should the Company's rate of return be adjusted downward to reflect the reduced risk of under-recovery as a result of the implementation of the SFV rate design?

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

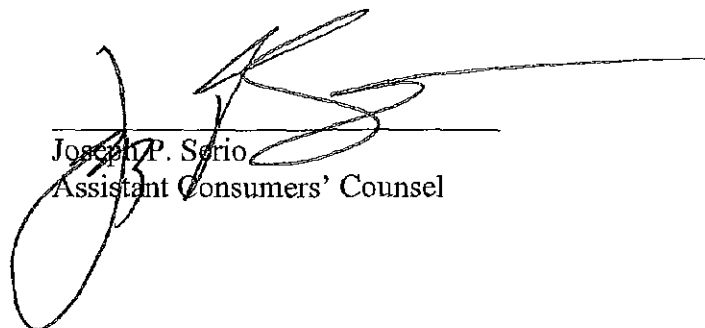


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Objections to the PUCO Staff's Report of Investigation and Summary of Major Issues* was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 24th day of July, 2009.



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