BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18, and Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, 4901:1-15-17, 4901:1-21-14, and 4901:1-29-12 of the Ohio Administrative Code.	)	Case No. 08-723-AU-ORD

ENTRY

The Commission finds:

(1) On December 17, 2008, the Commission issued its Opinion and Order (Order), adopting amended and new rules in Chapters 4901:1-17 and 4901:1-18, Ohio Administrative Code (O.A.C.), and concluding that the proposed amendments to 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, O.A.C.,[1] (jointly, payment agent rules) were not necessary and, therefore, the revisions to the payment agent rules were not adopted.

(2) Numerous applications for rehearing of the Order were filed by various interested parties. On April 1, 2009, the Commission issued its Entry on Rehearing (Entry), granting in part and denying in part the various applications for rehearing. By entry issued June 3, 2009 (June 3 Entry), the Commission directed that the new and amended rules adopted in Chapters 17 and 18, O.A.C., including the extensively revised gas percentage of income payment plan (PIPP) rules at Rules 18-12 to 18-16, would be effective November 1, 2010.

(3) On August 25, 2009, Columbia Gas of Ohio, Inc. (Columbia or Applicant) filed an application for waiver of certain currently applicable provisions of the rules in Chapters 17 and 18, to implement, with one exception, the comparable rule provisions adopted by the Commission in this proceeding but not scheduled to be effective until November 1, 2010. More specifically, Columbia requests approval to implement the one-

[1] Hereinafter, the rules in Chapters 4901:1-17 and 4901:1-18, O.A.C., will be referred to by chapter and rule number only. In other words, Rule 4901:1-18-14, O.A.C., will be abbreviated to Rule 18-14.

ninth payment plan set forth in adopted Rule 18-05; utilize the new medical certification form; implement the service connection timeframes for new service and for customers whose service has been disconnected for more than 10 business days as set forth in adopted Rule 18-07; send the additional winter disconnection notice by regular U.S. mail as permitted in adopted Rule 18-06; extend the application of the landlord-tenant notice requirements to single-occupancy dwellings in accordance with adopted Rule 18-08; and implement the improved guarantor requirements set forth in adopted Rules 17-03 and 17-06.

In the waiver application, Columbia requests the waiver of five particular provisions of the rules and the authority to enact an additional new payment plan. Columbia states that implementing a small number of the non-PIPP rule amendments, prior to November 1, 2010, consistent with the company's existing internal schedule, will ease the transition to the new rules for Columbia's programmers, business personnel, and customer support staff. Generally, Columbia contends that these waivers are sought to permit the company to efficiently phase in the implementation of the rules adopted in Chapters 17 and 18, as well as other matters that must be addressed by the company's information technology (IT) personnel. Implementation of all of the Chapter 17 and 18 rules at once, according to Columbia, may require the company to add multiple developmental and test environments at significant costs. On the other hand, Columbia contends that implementing the six adopted rule provisions sought in this application will facilitate the effective management of IT personnel and the completion of the programming necessary to implement the remainder of the rules adopted in this proceeding by November 1, 2010. Columbia further opines that implementing all of the rule revisions adopted in this proceeding will likely lead to implementation problems and errors that could impact customers. The phase-in approach, according to Columbia, will lead to fewer errors and better customer service.

Finally, Columbia requests that the Commission "grant this application an expedited ruling, pursuant to Rule 4901-1-12(C), O.A.C." to allow the company to begin implementing the adopted provisions beginning October 1, 2009. In its waiver

application, Columbia did not indicate whether there were any objections to its waiver requests or to the request for an expedited ruling. Pursuant to Rule 4901-1-12(C), O.A.C., if the moving party fails to certify that no party objects to the request for an expedited ruling, any party may file a memorandum contra within seven days after the service of the motion. If service is made by mail, three days must be added to the prescribed time pursuant to Rule 4901-1-07(B), O.A.C.

(4) On September 14, 2009, the Ohio Consumers' Counsel (OCC) filed a memorandum contra Columbia's request for waivers.

(5) On September 17, 2009, Columbia filed a motion to strike OCC's memorandum contra. According to Columbia, any memorandum contra its application was due September 4, 2009, including the three days for mailing under Rule 4901-1-07(B), O.A.C. Columbia also notes that OCC did not file a request for an extension of time to file its memorandum. For these reasons, Columbia urges the Commission to strike OCC's response.

(6) On September 22, 2009, OCC filed a memorandum contra Columbia's motion to strike. OCC contends that Columbia filed, on August 25, 2009, an application for a waiver of Commission rules and, within the application, sought an expedited ruling. OCC argues that Rule 4901-1-12(C), O.A.C., provides that any motion may include a specific request for an expedited ruling and the grounds for the request must be set forth in a memorandum in support. Although Columbia sought an expedited ruling in an application, OCC states that the request was not made pursuant to Rule 4901-1-12(C), O.A.C., by the filing of a motion and, therefore, OCC was not limited to seven days to file its memorandum contra.

(7) As noted above, Columbia requested an expedited ruling without filing a motion or a memorandum in support. Therefore, the abbreviated time limitation for filing a memorandum contra set forth in Rule 4901-1-12(C), O.A.C., does not apply. Accordingly, Columbia's motion to strike will be denied.

(8) OCC opposes Columbia's request for a waiver of the service connection timeframes, the request to provide the 10-day

disconnection notice by U.S. mail, and the request to implement the revised guarantor provisions in the adopted rules. OCC does not oppose the other requests for waivers. In general, OCC notes that the unemployment rate in Ohio has increased since the initiation of this rule review proceeding and requests that the Commission ensure that waiver requests or the early implementation of any of the rules adopted be considered in light of the economic conditions in Ohio. Further, OCC asserts that, because the waivers would likely increase the number of disconnections and/or make the establishment of credit more difficult for residential customers, they should be balanced by the implementation of lower monthly PIPP payment levels or other provisions that would assist residential customers to maintain utility service.

Rule 18-05, Payment plans

(9) Columbia requests a waiver that would allow it to offer its customers the one-ninth payment plan set forth in adopted Rule 18-05(B)(2).[2] The current rules include two standard payment plans, the one-sixth plan and the one-third plan. However, the one-third payment plan is available only during the winter heating season (November 1 - April 15). Columbia would like to offer the one-ninth plan, beginning October 1, 2009.

(10) The Commission finds Columbia's request to implement the one-ninth payment plan to be reasonable and the request should be granted. The additional payment plan will provide residential customers with delinquent accounts another option to make payments more manageable and allow the customer to maintain their utility service with Columbia.

Rule 18-06, Medical certification form

(11) Columbia requests authority to utilize the adopted medical certification form in the appendix to adopted Rule 18-06, beginning October 1, 2009.

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[2] Columbia states that initially the one-ninth payment plan would only be offered to customers by speaking with a Columbia customer service representative. Subsequently, programming will be implemented to allow customers to enroll in the one-ninth payment plan via the company's automated self-service phone system and the web self-service system by January 1, 2010.

(12) The Commission adopted the new medical certification form to make the process clearer for medical professionals and balance the customer's need to avoid the disconnection of his/her service when necessitated by medical circumstances. We view Columbia's utilization of the adopted form to be merely a transition without any change in the customer's rights. As such, the Commission grants Columbia's request for waiver to utilize the adopted medical certification form.

Rule 18-06, Reconnection timeframes

(13) Columbia requests a waiver to restore the service of customers whose service has been disconnected for more than 10 business days, pursuant to the timeframes for the establishment of new service, as stated in adopted Rule 18-07. Currently, disconnected customers are afforded priority status. Rule 18-06(A) provides that, upon payment or proof of payment, a disconnected customer's service shall be reconnected by the close of the following regular company working day. Should the customer wish to ensure that service is reconnected on the same day, the customer must provide proof of payment and contact the company by no later than 12:30 p.m. See Rule 18-06(B).

Columbia argues that in October and November of this year, thousands of new residences will be nearing completion and require new meters to be installed. Further, Columbia states that customers who seasonally disconnect their service for convenience and students returning to campus will request that their gas service be established. Most significantly, in addition, Columbia notes that customers taking advantage of the Commission's special reconnection procedures in the Winter Reconnect Order[3] will also request that their service be reconnected. However, Columbia contends that, because customers that use the Winter Reconnect Order provisions receive priority, the company can not fairly and efficiently connect/reconnect the service of its other customers.[4] The Applicant states that the connection/reconnection requests

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3 See *In the Matter of the Investigation into Long-Term Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies*, Case No. 09-782-GE-UNC, Entry (September 23, 2009).

4 The application demonstrates that Columbia receives significantly more service connection orders on Mondays and Fridays and whenever the temperature drops significantly.

cause service technicians to work 16-hour days and the company to incur over $3 million in overtime costs. The company determined that 75 percent of the overtime costs are attributable to connections or reconnections under the Winter Reconnect Order.

Columbia requests that it be permitted to implement the adopted timeframes for service reconnection as set forth in the adopted rules. Adopted Rule 18-07(A), in conjunction with Rule 13-05(A)(1)(a), requires service to be connected/reconnected within five days. Columbia reasons that consistent service connection procedures for customers will allow the company to better manage its service orders and reduce the waiting period for customers that are not taking advantage of the Winter Reconnect Order, reduce missed and rescheduled appointments, reduce overtime costs, and provide more manageable work schedules for Columbia employees. Columbia requests authority to adopt the provisions of Rule 18-07(A) as of October 1, 2009.

Columbia requests this waiver to better manage its service technicians and work orders, and to reduce overtime costs. Furthermore, the adopted reconnection provisions allow the utility companies to treat customers who seasonally disconnect their service for convenience, students, new home buyers and customers taking advantage of the Winter Reconnect Order alike. As we reminded the utilities in the Entry, once payment or proof of payment is received, Columbia should make every effort possible to restore service to customers by the end of the following business day when the seasonal demand for reconnection is not an issue or excessive (Entry at 16). Additionally, Columbia has a continuing responsibility to act reasonably based on current conditions. This includes a responsibility to expedite reconnections when weather conditions or other circumstances are such that the failure to do so might endanger public health and safety. The Commission finds Columbia's request to waive Rule 18-06(A) and implement adopted Rule 18-07(A) to be reasonable and, therefore, the request should be granted.

Rule 18-07, Landlord-tenant provisions

(14) Columbia requests a waiver to extend the currently effective landlord-tenant provisions in Rule 18-07 to tenants of single-occupancy residences where the gas utility service is included in the rent, effective October 1, 2009.

(15) As explained in the Order:

> The Commission recognizes that a reading of the *Hails* case [*In the Matter of the Complaint of Jean Hails and Mary Higgins*, Case No. 95-826-GA-CSS, Opinion and Order (March 12, 1998)] will reflect the fact that the affected tenants lived in a dwelling with three apartments. Nonetheless, the Commission believes that it is appropriate for tenants in single-family dwellings, where the utilities are included in the rent, to have the same remedies as tenants in multi-unit dwellings.

Accordingly, Columbia's request to waive the currently effective landlord-tenant provisions included in Rule 18-07 to extend the notice requirements to single-occupancy dwellings, pursuant to adopted Rule 18-08, as of October 1, 2009, is reasonable and should be granted.

Rule 18-05(B), Winter disconnect notice (Ten-day notice)

(16) Columbia requests a waiver of Rule 18-05(B)(1), which requires the utility to, among other things, make contact with the customer or other adult consumer at the premises 10 days prior to the disconnection of service for nonpayment, by personal contact, telephone, or hand-delivery of a written notice, during the November 1 to April 15 period. Adopted Rule 18-05(B)(1), in addition to the other methods of contact, allows the utility to send the notice by regular U.S. mail, provided three calendar days are added to allow for mailing the notice, and provided the date of disconnection is extended by 10 days.

(17) The Commission notes that the purpose of Rule 18-05(B)(1) is to ensure that, during the winter heating season, every effort is made to contact the customer facing disconnection before the disconnection of their service. Under the current and the

adopted procedures in Rule 18-05(A)(5) and adopted Rule 18-06(A)(5), during the period November 1 through April 15, a customer whose account is delinquent will receive three notices. The first notice will be on the regular monthly bill or by separate mailing and will prominently indicate that it is a disconnection notice. With regard to the second notice, the notice at issue in this waiver request, pursuant to Rule 18-05(B)(1), the utility is required to "make contact with customer or other adult consumer at the premises ten days prior to disconnection of service by personal contact, telephone, or hand-delivered written notice." Adopted Rule 18-06 adds the option for the utility to send the second notice by mail. If the customer has not responded to either of the first two notices by making a payment or payment arrangements, the third notice will occur on the day of disconnection.

The Commission believes that, in accordance with the provisions of the adopted rule, even if the customer receives the winter disconnection notice by U.S. mail, ample attempts for contact with the customer will have been made by the utility company. Therefore, the Commission finds that Columbia's request for a waiver that would allow it to send the second notice by U.S. mail, prior to the disconnection of service, pursuant to adopted Rule 18-06(B)(1), is reasonable. We note that our decision to amend the winter disconnection notice requirements in the adopted rules to include the option for the utility to send the second notice by U.S. mail and our decision on the Columbia waiver are consistent with our previous decisions to waive the personal contact requirement in the current rules. See *In re Dayton Power and Light Co.*, Case No. 05-1171-EL-UNC, et al., Entry (January 4, 2006); *In re Northeast Ohio Natural Gas Corp.*, Case No. 06-1296-GA-UNC, et al., Entry (November 28, 2006). When the Commission again considered the issue of allowing gas, natural gas, and electric utility companies to send the winter disconnect notice by U.S. mail, no concerns were raised by any interested stakeholders, including OCC. (See OCC comments at 93-94; OCC reply comments at 61-62). Accordingly, Columbia's request for a waiver of Rule 18-05(B)(1) should be granted.

Rule 17-03 and 17-06, guarantor provisions

(18) Columbia requests a waiver to implement the adopted guarantor requirements included in adopted Rules 17-03(A)(5) and 17-06, effective January 1, 2010. One of the means by which an applicant for utility service can establish creditworthiness is to have a guarantor. In this proceeding, the Commission adopted certain revisions to Rules 17-03(A)(5) and 17-06 to clarify the guaranteed customer's and the guarantor's rights and responsibilities, require the guarantor to be a customer of the utility, and provide certain notices to both the guaranteed customer and the guarantor, where the circumstances may affect the other's rights and responsibilities.

(19) When compared with the current guarantor requirements, the only more stringent provision of the adopted rules is that the guarantor must be a customer of the utility company. Though more stringent, the Commission does not view this additional requirement as the elimination of one of the means by which an applicant can establish creditworthiness. In fact, the adopted guarantor provisions provide the guaranteed customer and the guarantor better and timely notice to allow each one time to act to protect their respective utility service. As such, the Commission finds Columbia's request to waive the currently effective guarantor provisions in Rule 17-03(A)(5) and (C) and Rule 17-06 and, instead, implement the adopted provisions of the same rules, effective January 1, 2010, to be reasonable. The request should therefore be granted.

The Commission finds that this request for six waivers, to implement certain of the adopted rule revisions in Chapters 17 and 18, as a package, represents a balanced selection of provisions for utility customers and the utility company. Many customers will find the opportunity to use the one-ninth payment plan beneficial. The early implementation of the landlord-tenant notice requirements will benefit the tenants of single-occupancy dwellings. Guarantors and guaranteed customers will benefit from the more detailed rights and responsibilities and notice requirements. On the other hand, the waiver of Rule 18-06(A) will allow Columbia to more efficiently schedule its workforce and process work orders while also reducing overtime costs. Further, all customers in need of the assistance of a Columbia service technician will

benefit from fewer missed appointments and the need to reschedule appointments.

(20) To inform customers of the availability of the one-ninth payment plan, Columbia is directed to revise its disconnection notices. Columbia shall revise its disconnection notices, or if the initial notice is on the bill, its bill stock and 10-day winter disconnection notice, to include the one-ninth payment plan as soon as possible, but not later than the implementation of a customer's ability to enroll in the one-ninth payment plan by automated processes or January 1, 2010, whichever comes first. In addition, Columbia should also revise its disconnection notices to inform customers whose service is disconnected for nonpayment for more than ten business days, that service will be reconnected within five business days after payment. Columbia is also directed to inform community action agencies throughout the state of the availability of the one-ninth payment plan and the service connection/reconnection timeframes by no later than October 9, 2009.

It is, therefore,

ORDERED, That Columbia's requests for waivers of the specified provisions of the rules in Chapters 17 and 18 be granted as discussed in this entry. It is, further,

ORDERED, That Columbia shall amend its disconnection notices to inform customers of the one-ninth payment plan option. It is, further,

ORDERED, That Columbia shall inform community action agencies in its service territory of the availability of the one-ninth payment plan and ask that agency representatives warn customers about the connection/reconnection timeframes by no later than October 9, 2009. It is, further,

ORDERED, That Columbia's motion to strike OCC's memorandum contra filed on September 14, 2009, is denied. It is, further,

ORDERED, That a copy of this entry be served upon all interested persons of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Entered in the Journal

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Secretary