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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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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

**OHIO GAS COMPANY'S MEMORANDUM CONTRA
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
APPLICATION FOR REHEARING**

Joseph M. Clark (Counsel of Record)
Gretchen J. Hummel
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4228
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
jclark@mwncmh.com
ghummel@mwncmh.com

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Attorneys for The Ohio Gas Company

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I. BACKGROUND

The Commission issued its Finding and Order in this proceeding adopting amended rules in Chapters 4901:1-17 and 4901:1-18, Ohio Administrative Code ("O.A.C.") on December 17, 2008, and its Entry on Rehearing on April 1, 2009. In its Entry on Rehearing, the Commission ordered that the "utilities shall immediately begin the programming changes necessitated by the new gas PIPP program and changes to the provisions of Chapters 17 and 18."¹ At the same time, the Commission explicitly addressed the circumstances of Ohio Gas Company ("Ohio Gas" or "Company"), directing Ohio Gas to make a separate filing for its consideration if Ohio Gas had company-specific concerns about implementing the rules.²

In keeping with the Commission's intent that the necessary preparation for implementation of its new rules not be delayed, and its specific invitation to Ohio Gas to seek necessary waivers from its new Graduate PIPP and arrearage crediting rules (and

¹ Entry on Rehearing at 41 (April 1, 2009).

² *Id.* at 45.

any related bill format modifications that might ultimately be required), Ohio Gas filed its Motion for Waiver on May 27, 2009 ("Motion for Waiver"). On June 11, 2009, the Office of the Ohio Consumers' Counsel ("OCC") and the Ohio Partners for Affordable Energy ("OPAE") each filed a Memorandum Contra to Ohio Gas' Motion for Waiver. On June 18, 2009, Ohio Gas filed its Reply to OCC's and OPAE's Memoranda Contra, as well as proposed an alternative arrearage crediting program in place of the arrearage crediting rules.

On August 18, 2009, Ohio Gas filed a letter clarifying certain aspects of its Motion for Waiver. The Commission granted Ohio Gas' waiver request on August 19, 2009 and OCC filed an Application for Rehearing on September 18, 2009. Ohio Gas hereby files its Memorandum Contra OCC's Application for Rehearing.

II. DISCUSSION

The Commission's Entry granting Ohio Gas a waiver of the Graduate PIPP and arrearage crediting rules was reasonable and appropriate. OCC raises no issues that demonstrate that the Commission's decision is unreasonable and the Commission should deny OCC's Application for Rehearing.

OCC generally laments the "unverified" cost estimates provided by Ohio Gas and urges the Commission not to accept at face value the cost/benefit projections of Ohio Gas.³ OCC raises nothing new for the Commission's consideration and has provided no information or any basis to believe that the information provided by Ohio Gas is inaccurate.⁴ The information provided by Ohio Gas accurately computed the estimated

³ OCC Application for Rehearing at 3-4, 8 (September 18, 2009).

⁴ See Memorandum Contra Ohio Gas Company's Motion for Waivers by the Office of the Ohio Consumers' Counsel at 5 (June 11, 2009).

information technology and human resource costs necessary to make the rule changes adopted by the Commission. The Commission appropriately found that it would be unreasonable to require Ohio Gas to incur these costs inasmuch as the costs of implementing the changes outweighed the benefits that customers would receive.⁵

OCC also asserts that the Commission should not extend waivers to "mid-size" companies on top of the blanket waiver of the PIPP rules already afforded to small gas companies.⁶ First, Ohio Gas still must comply with all other provisions of the PIPP rules except those limited number of rules from which it has been granted a waiver or the Commission has approved an alternative method of compliance.⁷ Additionally, Ohio Gas is seven times smaller than the next largest local distribution company ("LDC") and approximately 30 times smaller than the largest Ohio LDC. The Commission appropriately recognized Ohio Gas' size and that spreading the costs of implementing the PIPP rules without the requested relief over Ohio Gas' small customer base would be unreasonable.⁸ The Commission's Entry is reasonable and OCC's Application for Rehearing should be denied.

A. Approving the Ohio Gas waiver from the arrearage crediting rules and Ohio Gas' alternative arrearage crediting plan is reasonable.

OCC first takes aim at the Commission's approval of Ohio Gas' alternative arrearage crediting plan and the Ohio Gas waiver of the arrearage crediting rules. OCC

⁵ Entry at 8-9 (August 19, 2009).

⁶ Application for Rehearing at 3 (September 18, 2009).

⁷ Entry at 9 (August 19, 2009).

⁸ Of note, in the Minimum Gas Service Standards ("MGSS"), the Commission redefined the term "small natural gas company" to include Ohio Gas. *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, Entry on Rehearing at 14 (May 16, 2006).

asserts that the alternative arrearage crediting plan accepted by the Commission will deny the incentive of arrearage forgiveness to the majority of PIPP customers served by Ohio Gas.⁹ Specifically, OCC avers that the alternative arrearage forgiveness plan is nearly impossible to achieve, that it is unreasonable to require a PIPP customer to make nine timely payments to receive the arrearage credit, and that PIPP customers should be given credits for each timely payment, even if that arrearage credit is only awarded once per year.¹⁰ Finally, OCC criticizes Ohio Gas' offer to track PIPP customers for purposes of arrearage crediting even if they move within Ohio Gas' service territory as unlikely to provide incentives to low-income customers.¹¹

Ohio Gas demonstrated and the Commission correctly concluded in its Entry that it would be "unreasonable to require Ohio Gas's non-PIPP customers to incur \$90,000 to \$100,000 in programming fees, not to mention the time of Ohio Gas employees, to provide a small number of customers the opportunity to receive the arrearage credit under the arrearage crediting provisions of the PIPP rules, where the company has presented a less expensive, feasible alternative."¹² The Commission's Entry appropriately reduces the programming and human resource burden to Ohio Gas to a reasonable level while approving a viable and fair alternative by which customers are incentivized to reduce or eliminate their arrearages.

Contrary to OCC's assertions, Ohio Gas' alternative arrearage crediting program provides the timely payment incentive that the Commission sought to foster through the

⁹ Application for Rehearing at 5 (September 18, 2009).

¹⁰ *Id.* at 7-8.

¹¹ *Id.* at 9.

¹² Entry at 8 (August 19, 2009).

adoption of the arrearage crediting rules. And, as the Commission correctly pointed out, Ohio Gas' alternative arrearage crediting program has benefits over the arrearage crediting program in the Commission's adopted rules. For example, the Commission highlighted the fact that a PIPP customer has the opportunity under Ohio Gas' alternative plan to wipe out his/her entire arrearage in one year when that same customer can completely eliminate their arrearage under the adopted rules in "two years at best."¹³ Further, Ohio Gas customers will begin to receive the benefits of arrearage crediting before customers served by the other natural gas utilities. While the new arrearage crediting rules will not be effective until November 2010, Ohio Gas will begin tracking customer payments to apply towards its approved alternative arrearage crediting beginning with the August 2010 bills, three months before the rules go into effect.

Finally, Ohio Gas' efforts to track and apply its alternative arrearage crediting program to PIPP customers, even if they move to a different location, should not be discounted. As Ohio Gas pointed out in its Reply Comments in this proceeding, trying to track arrearage credits for PIPP customers is difficult because PIPP customers move much more frequently than non-PIPP customers.¹⁴ Ohio Gas must complete internal tasks as well as pay for computer programming costs to install the capability to track each PIPP customer regardless of the frequency in which they move. Thus, Ohio Gas' efforts to ensure it can track and accurately account for all payments made by a particular customer, regardless of where they live in Ohio Gas' territory, allows

¹³ *Id.* at 9.

¹⁴ Reply Comments of Ohio Gas Company at 3-4 (October 14, 2008).

additional customers to qualify for and take advantage of Ohio Gas' alternative arrearage crediting program.

The Commission's Entry approving Ohio Gas' alternative arrearage crediting plan, as well as the waiver of the arrearage crediting rules for Ohio Gas, is reasonable and OCC's Application for Rehearing should be denied.

B. Approving the Ohio Gas waiver from the Graduate PIPP rules is reasonable.

OCC next complains that the Commission's granting of a waiver of the Graduate PIPP rules is unreasonable inasmuch as the Commission relied on unsupported Ohio Gas projections that are based on the current PIPP rules without empirical data.¹⁵ OCC also avers that Ohio Gas could manually administer the program because so few Ohio Gas customers are going to participate in the Graduate PIPP program.¹⁶

The Commission correctly found that it would be unreasonable to require Ohio Gas to incur the cost of implementing the adopted graduate PIPP rules when very few customers are likely to switch over to the Graduate PIPP program.¹⁷ As Ohio Gas pointed out in its waiver request, and the Commission recognized in its Entry, "most participants in the graduate PIPP program will likely be former PIPP customers that are no longer eligible for PIPP."¹⁸ In 2008, only ten Ohio Gas customers transferred from PIPP to a different payment plan because they no longer qualified for PIPP.¹⁹ The information technology changes associated with implementing this program would dwarf

¹⁵ OCC Application for Rehearing at 9-10 (September 18, 2009).

¹⁶ *Id.*

¹⁷ Entry at 8 (August 19, 2009).

¹⁸ *Id.*

¹⁹ Motion for Waiver at 9.
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the benefits that might be derived by the very few customers who would utilize this program.

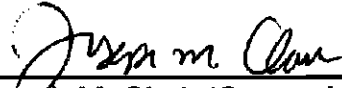
Additionally, OCC's suggestion about manually tracking Graduate PIPP customers is not as easy as OCC makes it out to be and should be denied. These individual customers may be on any one of Ohio Gas' 21 different billing cycles and therefore the program cannot be manually administered efficiently inasmuch as it would require a vigilant watch on these individual accounts throughout each and every month to make sure they are billed appropriately under the program. Manually tracking these customers would also require manually calculating the appropriate arrearage credit for these customers under Ohio Gas' alternative arrearage crediting program, as well as additional manual intervention to apply the calculated arrearage credit for each customer. Reporting or tracking information related to these customers would also be very cumbersome. The costs to manually administer the Graduate PIPP program would outweigh the benefits that might accrue to those very few customers likely to take advantage of the program. Ohio Gas will continue to work with all of its customers, including those customers not eligible for the PIPP program or those who voluntarily terminate their participation in the PIPP program, to work out realistic and mutually agreeable payment arrangements.

The Commission's Entry approving Ohio Gas' request for a waiver of the Graduate PIPP rules is reasonable and OCC's Application for Rehearing should be denied.

III. CONCLUSION

Ohio Gas respectfully requests the Commission deny OCC's Application for Rehearing for the reasons identified above.

Respectfully submitted,



Joseph M. Clark (Counsel of Record)

Gretchen J. Hummel

MCNEES WALLACE & NURICK LLC

21 East State Street, 17th Floor

Columbus, OH 43215-4228

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

jclark@mwncmh.com

ghummel@mwncmh.com

Attorneys for The Ohio Gas Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Ohio Gas Company's Memorandum Contra The Office of The Ohio Consumers' Counsel's Application for Rehearing* was served upon the following parties of record this 28th day of September, 2009, via electronic transmission, hand-delivery or first class mail, postage prepaid.



Joseph M. Clark

Lisa G. McAlister
McNees Wallace & Nurick
Fifth Third Center
21 East State Street, 17th Floor
Columbus, OH 43215-4228

ON BEHALF OF VECTREN ENERGY DELIVERY OF OHIO

Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, OH 43215-3927

ON BEHALF OF CONSTITUTION GAS , TRANSPORT Co., INC., FORAKER GAS COMPANY, KNG ENERGY, INC., THE SWICKARD GAS COMPANY AND THE OHIO DEPARTMENT OF DEVELOPMENT

James W. Burk, Counsel of Record
Ebony L. Miller
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

ON BEHALF OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY

Eric Gallon
Porter Wright Morris & Arthur
41 South High Street, Ste. 3000
Columbus, OH 43215

ON BEHALF OF COLUMBIA GAS OF OHIO

David A. Kutik
Andrew J. Campbell
Jones Day
325 John H. McConnell Boulevard, Suite 600
P.O. Box 165017
Columbus, OH 43216-5017

ON BEHALF OF DOMINION EAST OHIO

David C. Rinebolt
Colleen L. Mooney
1431 Mulford Road
Columbus, OH 43212

ON BEHALF OF OHIO PARTNERS FOR AFFORDABLE ENERGY

Bill Faith
175 S. Third Street
Columbus, OH 43215

ON BEHALF OF COALITION ON HOMELESSNESS AND HOUSING IN OHIO

Ron Bridges
AARP-Ohio
17 S. High Street, Suite 800
Columbus, OH 43215

ON BEHALF OF AARP-OHIO

Lisa Hamler-Fuggit
Ohio Association of Second Harvest Foodbanks
51 N. High Street, Suite 761
Columbus, OH 43215

**OHIO ASSOCIATION OF SECOND HARVEST
FOODBANKS**

Phil Cole
Ohio Association of Community
Action Agencies
50 W. Broad Street, Suite 1616
Columbus, OH 43215

**OHIO ASSOCIATION OF COMMUNITY
ACTION AGENCIES**

Elizabeth L. Anstaett,
Dreher Langer & Tomkies L.L.P.
2250 Huntington Center
41 S. High Street
Columbus, OH 43215

ON BEHALF OF ACE CASH EXPRESS

Thomas E. Lodge
Thompson Hine
41 S. High St., Suite 1700
Columbus, OH 43215

ON BEHALF OF OHIO TELECOM ASSOCIATION

Jon F. Kelly
AT&T Services, Inc.
150 E. Gay St., Room 4-A
Columbus, OH 43215

ON BEHALF OF AT&T SERVICES, INC.

Janine L. Migden-Ostrander
Consumers' Counsel
Richard C. Reese
David C. Bergmann
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215

**ON BEHALF OF THE OFFICE OF THE OHIO
CONSUMERS COUNSEL**

Tim Walters
4115 Bridge Street
Cleveland, OH 44113

**ON BEHALF OF THE MAY DUGAN CENTER,
CONSUMERS FOR FAIR UTILITY RATES, UNITED
CLEVELANDERS AGAINST POVERTY**

Noel Morgan
215 East Ninth Street, Suite 5200
Cincinnati, OH 45202

ON BEHALF OF CITIZENS UNITED FOR ACTION

{C29007: }

Mike Piepsny
3631 Perkins Avenue, Suite 3A
Cleveland, OH 44114

ON BEHALF OF CLEVELAND TENANTS ASSOC.

Ellis Jacobs
Legal Aid Society of Dayton
333 West First Street, Suite 500
Dayton, OH 45402

**ON BEHALF OF EDMONT NEIGHBORHOOD
COALITION**

Michele Lucas
108 North 2nd Street
Dennison, OH 44521

**ON BEHALF OF HARCATUS TRI-COUNTY
COMMUNITY ACTION ORGANIZATION**

Michael Walters
Pro Seniors, Inc.
7162 Reading Road, Suite 1150
Cincinnati, OH 45237

ON BEHALF OF PRO SENIORS

Michael Smalz
Ohio State Legal Service Assoc.
555 Buttles Ave.
Columbus, OH 43215

**ON BEHALF OF APPALACHIAN PEOPLES ACTION
COALITION**

Dale Arnold
Ohio Farm Bureau
P.O. Box 182383
Columbus, OH 43218

ON BEHALF OF OHIO FARM BUREAU FEDERATION

Greg Hitzhusen
P.O. Box 26671
Columbus, OH 43226

**ON BEHALF OF OHIO INTERFAITH POWER AND
LIGHT**

Joseph Logan
Government Affairs Director
20 South High Street, Suite 130
Columbus, OH 43215

ON BEHALF OF OHIO FARMERS UNION

Douglas Lumpkin
Job and Family Services
80 E. Fulton Street
Columbus, OH 43215

**ON BEHALF OF FRANKLIN COUNTY JOB AND
FAMILY SERVICES**

Jeffrey A. Diver
Executive Director
P.O. Box 1322
Hamilton, OH 45012

**ON BEHALF SUPPORTS TO ENCOURAGE LOW-
INCOME FAMILIES**

Joe Meissner
3030 Euclid Suite 100
Cleveland, OH 44115

**ON BEHALF OF THE EMPOWERMENT CENTER OF
GREATER CLEVELAND, NEIGHBORHOOD
ENVIRONMENTAL COALITION, UNITED
CLEVELANDERS AGAINST POVERTY, CLEVELAND
HOUSING NETWORK, AND CONSUMERS FOR FAIR
UTILITY RATES**

Stephen M. Howard
52 E. Gay Street
P.O. Box 1008
Columbus, OH 43216

**ON BEHALF OF EASTERN NATURAL GAS
PIKE NATURAL GAS AND SOUTHEASTERN GAS**

Jenni Ricci-O'Donnel
CheckFreePay Corp.
15 Sterling Drive
Wallingford, CT 06492

ON BEHALF OF CHECKFREE PAY CORP.

Judi Sobacki
Dayton Power & Light Company
1065 Woodman Drive
Dayton, OH 45432

ON BEHALF OF DAYTON POWER & LIGHT

Paul Colbert
Amy Spiller
Elizabeth Watts
Duke Energy
155 East Broad Street, 21st Floor
Columbus, OH 43215

ON BEHALF OF DUKE ENERGY OHIO, INC.

Marvin Resnik
American Electric Power
1 Riverside Plaza, 29th Floor
Columbus, OH 43215

ON BEHALF OF AMERICAN ELECTRIC POWER

Douglas Hart
441 Vine Street
Suite 4192
Cincinnati, Ohio 45202

**ON BEHALF OF CINCINNATI BELL
TELEPHONE COMPANY LLC**

Grant Gerber
JONES DAY
P.O. Box 165017
Columbus, OH 43215-5017

David Kutik
JONES DAY
North Point, 901 Lakeside Avenue
Cleveland, OH 44114

**ON BEHALF OF EAST OHIO GAS COMPANY DBA
DOMINION EAST OHIO**

Mark Ramser
Ohio Cumberland Gas Company
20718 Danville-Amity Road
Mount Vernon, OH 43050

ON BEHALF OF OHIO CUMBERLAND GAS COMPANY