

**FILE**

12

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-SOCKETING DIV  
2009 SEP 28 PM 5:18

PUCO

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, 17<sup>th</sup> Floor  
Columbus, OH 43215-4228  
Telephone: (614) 469-8000  
Telecopier: (614) 469-4653  
jclark@mwncmh.com  
ghummel@mwncmh.com

**September 28, 2009**

**Attorneys for The Ohio Gas Company**

{C29007: }

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business  
Technician EF Date Processed 9-29-09

**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, )	Case No. 08-723-AU-ORD
4901:1-15-17, 4901:1-21-14, and 4901:1-29-12) )	
of the Ohio Administrative Code. )	

---

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

---

**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."<sup>1</sup> 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.<sup>2</sup>

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

---

<sup>1</sup> Entry on Rehearing at 41 (April 1, 2009).

<sup>2</sup> *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 ("OPAЕ") each filed a Memorandum Contra to Ohio Gas' Motion for Waiver. On June 18, 2009, Ohio Gas filed its Reply to OCC's and OPAЕ'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.<sup>3</sup> 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.<sup>4</sup> The information provided by Ohio Gas accurately computed the estimated

---

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

<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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

---

<sup>5</sup> Entry at 8-9 (August 19, 2009).

<sup>6</sup> Application for Rehearing at 3 (September 18, 2009).

<sup>7</sup> Entry at 9 (August 19, 2009).

<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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."<sup>12</sup> 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

---

<sup>9</sup> Application for Rehearing at 5 (September 18, 2009).

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> *Id.* at 9.

<sup>12</sup> 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."<sup>13</sup> 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.<sup>14</sup> 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

---

<sup>13</sup> *Id.* at 9.

<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup> 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."<sup>18</sup> In 2008, only ten Ohio Gas customers transferred from PIPP to a different payment plan because they no longer qualified for PIPP.<sup>19</sup> The information technology changes associated with implementing this program would dwarf

---

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

<sup>16</sup> *Id.*

<sup>17</sup> Entry at 8 (August 19, 2009).

<sup>18</sup> *Id.*

<sup>19</sup> Motion for Waiver at 9.  
{C29007: }

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.

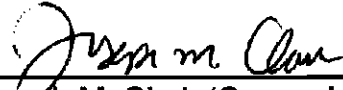
The Commission's Entry approving Ohio Gas' request for a waiver of the Graduate PIPP rules is reasonable and OCC's Application for Rehearing should be denied.



### 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, 17<sup>th</sup> 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**

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 2<sup>nd</sup> 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 Sobecki  
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, 21<sup>st</sup> Floor  
Columbus, OH 43215

**ON BEHALF OF DUKE ENERGY OHIO, INC.**

Marvin Resnik  
American Electric Power  
1 Riverside Plaza, 29<sup>th</sup> 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**