

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of Chapters 4901:1-17 and)	Case No. 08-723-AU-ORD
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.)	

**AMENDED MOTION FOR WAIVER AND
MEMORANDUM IN SUPPORT OF
EASTERN NATURAL GAS COMPANY**

Eastern Natural Gas Company (“Eastern”, “the Applicant”, or “the Company”), a public utility/small natural gas company, which serves approximately 6,503 customers in northeastern Ohio and has 292 PIPP customers, respectfully requests three waivers from the Commission’s recently adopted Chapters 4901:1-17 and 18 of the Ohio Administrative Code, which will go into effect on November 1, 2010. Specifically, (a) Eastern requests a waiver from the arrearage crediting programs for both PIPP and Graduate PIPP customers and approval of an alternative to such programs; (b) a waiver from having to have any Graduate PIPP program; and (c) a waiver from any bill format modifications that are required to implement the arrearage credit and Graduate PIPP rules. This amended motion supersedes the motion filed on March 24, 2010.

The reasons offered in support of these requested waivers are set forth in the accompanying memorandum in support. Good cause exists for granting each of these waivers and approving the proposed alternative to the arrearage crediting programs.

WHEREFORE, Eastern Natural Gas Company respectfully requests that its amended motion for waiver be granted.

Respectfully submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP

By: _____/s/_____

M. Howard Petricoff (0008287)

Stephen M. Howard (0022421)

52 East Gay Street

P.O. Box 1008

Columbus, Ohio 43216-1008

(614) 464-5401 (Telephone)

(614) 464-6350 (Facsimile)

smhoward@vorys.com

Attorneys for

Eastern Natural Gas Company

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of Chapters 4901:1-17 and)	Case No. 08-723-AU-ORD
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.)	

MEMORANDUM IN SUPPORT

On December 17, 2008, the Commission issued a Finding and Order adopting amended rules in Chapters 4901:1-17 and 4901:1-18, Ohio Administrative Code ("O.A.C."). These amended rules related to credit and collections, extended payment programs, and low-income payment programs, namely the percentage of income payment plan ("PIPP") program. On January 16, 2009, Eastern Natural Gas Company, Pike Natural Gas Company, and Southeastern Natural Gas Company filed an application for rehearing, along with other commenters such as Ohio Gas Company. In its April 1, 2009 Entry on Rehearing, the Commission stated at page 45:

As for small gas and natural gas utility companies, defined as those companies with less than 15,000 customers, the Commission will continue its long standing practice of not requiring them to offer the PIPP program. However, the Commission does expect those companies to continue to work with their customers to help the customer retain utility service, just as the companies do today.

The Commission believes that the mid-sized gas companies (fewer than 75,000 customers) like OGC should continue to offer PIPP. We recognize, however, that the new arrearage crediting and Graduate PIPP programs may present issues unique to the mid-sized companies, since they have relatively fewer PIPP customers and fewer non-PIPP customers over which to spread the costs of these new programs. Therefore, we are willing to consider a company specific request for a waiver of the arrearage crediting and Graduate PIPP programs where the cost to non-PIPP customers outweigh

the benefits and where an alternative proposal might meet the spirit of the rules. Thus, should OGC have a specific concern OGC should make a company specific request in a separate filing for our consideration.

On May 27, 2009, Ohio Gas Company filed a request for waivers from Rules 4901:1-14 and 4901:1-16 of the OAC as well as an exemption from bill format modifications that might be required to address the arrearage crediting and Graduate PIPP programs. On August 19, 2009, the Commission granted Ohio Gas Company's request for waiver of the arrearage crediting provisions of the PIPP program, as set forth in adopted rule 18-14 of the Entry and directed Ohio Gas to implement an alternative arrearage crediting plan for PIPP customers. The Commission also granted Ohio Gas's request for a waiver of the adopted Graduate PIPP program, as set forth in adopted Rule 18-16 of the Entry.

Eastern, by this amended motion, respectfully asks that the Commission grant a waiver to it, similar to the Ohio Gas waiver, for the reasons set forth below.

A. The Commission Should Waive the Required Arrearage Crediting Program and Instead Adopt Eastern's Proposed Alternative.

Adopted Rule 4901:1-18-14 sets forth among other things, the arrearage crediting program for PIPP and Graduate PIPP customers. This rule provides in part:

Rule 4901:1-18-14 **Incentive programs for percentage of income payment plan and graduate percentage of income payment plan customers.**

- (A) Percentage of income payment plan (PIPP) and graduate PIPP customers shall be provided the incentive of a reduction in their outstanding arrearages in return for making timely payments.
 - (1) PIPP customer. Each time the PIPP customer makes his/her required income-based payment or more, as determined pursuant to rule 4901:1-18-13 of the Administrative Code, to the gas or natural gas utility company by the due date, the gas or natural gas utility company shall reduce the customer's account arrearage by the difference between the amount of the required income-based payment and the current monthly bill plus one twenty-fourth of the customer's accumulated arrearages, as calculated at the time of

enrollment or in the event of late or missed payments, at the time of reverification.

- (2) Graduate PIPP customer. Each time the graduate PIPP customer makes his/her required payment or more, as determined pursuant to rule 4901:1-18-13 of the Administrative Code, to the gas or natural gas utility company by the due date, the gas or natural gas utility company shall reduce the customer's account arrearage by the difference between the amount of the required payment and the current monthly bill plus one-twelfth of the customer's accumulated arrearages, as calculated at the time of enrollment in the graduate PIPP program.

Eastern has no information technology staff, but would have to make major information technology changes in order to comply with the arrearage crediting rules. Its billing program would need to be revised to calculate and store current monthly arrearage credit amounts on each PIPP customer record. Eastern has 292 PIPP customers. Eastern's billing systems cannot be reprogrammed to apply the credit without manual intervention. The current arrearage crediting rules would mean that Eastern would have to engage in a very expensive and time consuming overhaul of its billing system for approximately 292 PIPP customers per month. The Applicant's estimated time to overhaul and reprogram the billing system to achieve compliance is two and a half years. The programming would require use of computer consultants knowledgeable in both the RPG and Fortran programming languages and the VAX hardware used by the Applicant. Eastern has been unsuccessful in locating firms or individuals with these skill sets for a project of this magnitude to provide a cost estimate. Given the complexity of such a project and the lack of consultants capable of completing the required tasks, the Applicant would expect that there would be an increased risk of cost and time estimate overruns.

Eastern proposes that, as an alternative to the PIPP arrearage crediting in adopted Rule 4901:1-18-14, it will manually calculate and apply to each PIPP customer's account, once

each year, a credit for timely payment. More specifically, Eastern proposes that the PIPP customer would receive a credit if the customer:

- (a) Has been an active PIPP customer for the previous 12-month period, August 1 through July 31;
- (b) Has been an active PIPP customer on the same account during the August 1 through July 31 period; and
- (c) Has made at least nine timely payments during the 12-month period that equal the total amount due under the customer's PIPP program payment arrangement for the same 12-month period; and

If the customer meets the above criteria, Eastern would propose to credit the same percent of the customer's arrearages as the percentage of the customer's PIPP payments the customer timely paid during the period. Eastern recognizes that the initial program period is three months shorter than the time period of future periods. For the initial year of the new PIPP program, a customer that has made at least nine timely payments during the initial nine month period (November 1, 2010 through July 31, 2011) and paid 100% of the required payments during the period would have 100% of the accumulated arrearages forgiven. A customer who made seven timely payments (approximately 75% of the period) during the initial nine-month period and paid 100% of the required payments during the period would receive 75% of the accumulated arrearage forgiven.

In the second year, a customer who made 12 timely payments and paid 100% of the required payments during that period would have 100% of the accumulated arrearages forgiven. A customer who made nine timely monthly payments during the twelve month period

and paid 100% of the required payments during that period would have 75% of the accumulated arrearages forgiven.

Eastern proposes to manually determine, calculate and issue the arrearage credit only once each year after the end of the July billing period and would apply the total arrearage credit on the September monthly bill. It proposes to provide notice of the arrearage crediting program by a billing search to customers in June and July bills. Eastern would implement the remaining provisions of the PIPP rules as adopted by the Commission, to be effective November 1, 2010.

Given the size of Eastern Natural Gas Company, the time it would take to implement the arrearage crediting provisions of the adopted PIPP program and the graduate PIPP program, and the number of Eastern customers likely to benefit from the programs, the time consuming nature and resultant cost of implementing the adopted arrearage crediting and graduate PIPP program outweighs the benefits for the few, if any, customers eligible to receive such benefits. Good cause exists for granting the arrearage crediting waiver and directing the Applicant to implement its proposed alternative.

B. The Commission Should Waive the Adopted Graduate PIPP Program Rules for Eastern.

Adopted Rule 4901:1-18-16(A) automatically places a PIPP customer in the Graduate PIPP program if the customer voluntarily terminates participation in the PIPP program or if the customer no longer qualifies for PIPP.

Adopted Rule 4901:1-18-16(G) provides:

- (G) The graduate PIPP customer shall be billed the average of his/her income-based PIPP payment and the customer's budget bill amount $([\text{PIPP payment} + \text{budget bill amount}] \div 2)$ for the twelve billing cycles following enrollment in the program. The income-based payment shall be based on the income and household size immediately prior to the PIPP customer

becoming ineligible for PIPP or electing to terminate participation in PIPP. After twelve billing cycles, the graduate PIPP customer is no longer eligible for arrearage credits. Any remaining arrearage on the customer's account may become due and the customer placed on one of the extended payment plans in rule 4901:1-18-05 of the Administrative Code. If the arrearage remains on the customer's account and the customer fails to make extended payment arrangements, the gas or natural gas utility company may initiate disconnection procedures for failure to pay the remaining arrearage.

The payment for a customer in the Graduate PIPP program will be greater than the payment amount for a customer enrolled in the ordinary PIPP program under Rule 4901:1-18-13(A). Therefore, so long as a customer still qualifies for PIPP, the only incentive for the customer to voluntarily terminate enrollment in PIPP is to have the customer's arrearage more quickly diminished for on-time payments. See Rule 4901:1-18-14(A) of the OAC.

Eastern submits that it is in the best interest of a customer who still qualifies for PIPP to remain on PIPP instead of going to the Graduate PIPP program. Eastern has 292 PIPP customers. The number of Eastern customers who would voluntarily terminate their participation in the PIPP program in order to move to the Graduate PIPP program is likely to be very, very small, perhaps zero. Eastern has had no PIPP customers who have voluntarily left the PIPP program and transferred to another program in the last twelve months. Eastern respectfully suggests that very few Eastern customers would actually utilize the Graduate PIPP program.

Implementing the Graduate PIPP program would also require extensive computer system changes to calculate Graduate PIPP customers' bills as well as to apply the arrearage crediting rules as they apply to Graduate PIPP customers. Eastern serves only 6,631 customers and has a staff of 13 employees (11 full-time and 2 part-time of which only one full-time and both part-time work in the office). Eastern's current billing system does not maintain the data

needed to correctly calculate Graduate PIPP customers' bills. Eastern should not undertake the expense and effort to implement a program that might not be used by any customers.

Eastern 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. Those Graduate PIPP customers who might otherwise benefit from the adopted rules will still be provided a mechanism by which to retain their gas service while also paying their arrearages at a manageable pace. Good cause exists for granting the waiver from having to maintain the Graduate PIPP program.

C. The Commission Should Grant a Waiver from Any Bill Format Modifications That Are Required to Implement the Arrearage Credit and Graduate PIPP Rules.

In order to comply with the arrearage crediting and Graduate PIPP provisions, it would be necessary to comprehensively revise Eastern's entire billing system. Given the fact that there are very, very few customers, if any, who will benefit from the arrearage credit and Graduate PIPP programs, the Commission should waive the requirement of having to modify bills.

Furthermore, the Company recently completed a major bill reformatting, moving from a postcard-size bill to a letter-size bill that provides substantially greater information to its customers. (Case Nos. 09-1039/1040/1041-GA-UNC, Finding and Order, 01/07/2010). Additional individual changes to line titles, such as adding the word "Plus" to "PIPP" on lines is costly to a company of Eastern's size. We estimate that to make what on the surface appears to be a relatively simple change would cost approximately \$10,000. In order to make the change a programmer needs to be hired by the Company to determine if the line field in our system needs

to be extended. If the field needs to be extended, the programmer would then need to determine if the field can be extended in the program and, if so, program the extension. The firm that processes our currently new billings would need to make the modifications required to their program and then beta test the reprogramming to assure it works properly.

The Company believes that the addition of the word “Plus” to “PIPP” is a nuance which would be unnoticed by its customers. However, if the change had been contemplated during the review of the recent billing format filing, the Company assumes that it would have been able to make the necessary modifications for this future field expansion with substantially less cost since the change could have been bundled with the other changes being made, rather than making a single independent modification. The Company would offer that the next time modifications are made to its billing program and bill format, the change requested will be included.

D. Conclusion

Eastern Natural Gas Company is a small natural gas company serving less than 6,700 customers and approximately 292 PIPP customers. The costs to non-PIPP customers far outweigh the benefits with respect to the arrearage crediting and Graduate PIPP program rules as applied to Eastern Natural Gas Company. Very few Eastern customers will benefit from the arrearage credit and Graduate PIPP programs. Instead, the Commission should approve the proposed alternative. Likewise, any requirement to revise Eastern’s entire billing system in order to comply with the arrearage crediting and Graduate PIPP provisions would not be cost justified. The granting of these waivers would be consistent with Governor Strickland’s Executive Order entitled “Implementing Common Sense Business Regulation as well as the Regulatory Reform Task Force Report”. Good cause exists for granting all three of the waivers

requested by Eastern Natural Gas Company and for approving Eastern's proposed alternative to the PIPP arrearage crediting program.

Respectfully submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP

By: /s/
M. Howard Petricoff (0008287)
Stephen M. Howard (0022421)

52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
(614) 464-5401 (Telephone)
(614) 464-6350 (Facsimile)
smhoward@vorys.com

Attorneys for
Eastern Natural Gas Company

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Amended Motion for Waiver and Memorandum in Support was served upon the following parties of record by electronic mail where indicated or by U.S. first class mail this 3rd day of June, 2010.

/s/
Stephen M. Howard

David C. Bergmann
Office of Consumers' Counsel
10 W. Broad Street, Ste. 1800
Columbus, OH 43215
Bergmann@occ.state.oh.us

Tim Walters
May Dugan Center
4115 Bridge Avenue
Cleveland, OH 44113

Michael Smalz
Ohio State Legal Service Association
555 Buttles Avenue
Columbus, OH 43215-1137
msmalz@oslsa.org

Ellis Jacobs
Legal Aide Society of Dayton
333 W. First Street, Ste. 500
Dayton, OH 45402

Noel M. Morgan
Legal Aide Society of Southwest Ohio
215 E. Ninth Street
Cincinnati, OH 45202
nmorgan@lascinti.org

Anita M. Schafer
Duke Energy Ohio
139 E. Fourth Street
P.O. Box 9960
Cincinnati, OH 45202
Anita.Schafer@cinergy.com

Richard Reese
Office of Ohio Consumers' Counsel
10 W. Broad Street, Ste. 1800
Columbus, OH 43215-3485
reese@occ.state.oh.us

Ron Bridges
AARP
17 S. High Street, Ste. 800
Columbus, OH 43215
rbridges@aarp.org

Daniel A. Creekmur
Columbia Gas of Ohio, Inc.
200 Civic Center Drive
P.O. Box 117
Columbus, OH 43216-0117
dcreekmur@nisource.com

Paul Colbert
Duke Energy Ohio
139 E. Fourth Street
2500A Atrium II
Cincinnati, OH 45201-0960
pcolbert@cinergy.com

Mark A. Whitt
Jones Day
P.O. Box 165017
Columbus, OH 43216-5017
mawhitt@jonesday.com

Lisa McAlister
McNeese, Wallace & Nurik
21 E. State Street, 17th Floor
Columbus, OH 43215-4228
lmcalister@mwncmh.com

Tom Mendelsohn
Empowerment Ctr. of Gr. Cleveland
3030 Euclid, Ste. 100
Cleveland, OH 44115

Dale Arnold
Ohio Farm Bureau Federation
P.O. Box 182383
Columbus, OH 43218-2383
darnold@ofbf.org

Jeffrey A. Diver
Support to Encourage Low Income Families
P.O. Box 1322
Hamilton, OH 45012

Mike Piepsay
Cleveland Tenants Association
3631 Perkins Ave., Ste. 3A4
Cleveland, OH 44114

Douglas E. Lumpkin
Director, Franklin County Department of Job
and Family Services
80 E. Fulton Street
Columbus, OH 43215-5174

Thomas Brown, Jr.
200 Civic Center Drive
P.O. Box 117
Columbus, OH 43216-0117
tbrown@nisource.com

Mike Walters
Pro-Seniors
7162 Reading Rd., Ste. 1150
Cincinnati, OH 45237

Elizabeth Anstaett
Ace Cash Express, Inc.
2250 Huntington Center
41 S. High St.
Columbus, OH 43215
eanstaett@dltlaw.com

Lorana Kelly
Community Action Partnership
719 S. Main Street
Dayton, OH 45402

Michelle Lucas
Harcatus Tri-County Community
Action Organization
108 N. 2nd Street
Dennison, OH 44621

Jenny Ricci O. Donnell
Director, Regulatory Compliance
CheckFreePay Corporation
15 Sterling Drive, P. O. Box 5044
Wallingford, CT 06492-7544

Carolyn Flahive
Thompson Hine LLP
41 S. High Street, Suite 1700
Columbus, OH 43215-6101
Carolyn.flahive@thompsonhine.com

Bill Faith
Coalition on Homelessness
and Housing in Ohio
175 S. Third Street
Columbus, OH 43215
billfaith@cohhio.org

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

Joseph M. Clark
Daniel J. Neilsen
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, OH 43215-4228
jclark@mwncmh.com
dneilsen@mwncmh.com

Dave C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
1431 Mullford Road
Columbus, OH 43212
drinebolt@aol.com
cmooney2@columbus.rr.com

Lisa Hamler-Fuggit
Ohio Association of
Second Harvest Food Banks
51 N. High Street, Suite 761
Columbus, OH 43215
lisa@oashf.org

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/3/2010 2:50:16 PM

in

Case No(s). 08-0723-AU-ORD

Summary: Motion Amended Motion for Waiver and Memorandum in Support of Eastern Natural Gas Company electronically filed by Mr. Stephen M Howard on behalf of Eastern Natural Gas Company