

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Five-Year Review of)
Natural Gas Company Uncollectible) Case No. 08-1229-GA-COI
Riders.)

**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

RECEIVED-DOCKETING DIV

2012 JAN 13 PM 5:18

PUCO

**BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL**

Joseph P. Serio, Counsel of Record
Larry S. Sauer
Kyle L. Kern
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9565 – Telephone (Serio)
(614) 466-1312 – Telephone (Sauer)
(614) 466-9585 – Telephone (Kern)
serio@occ.state.oh.us
sauer@occ.state.oh.us
kern@occ.state.oh.us

January 13, 2012

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 SM Date Processed JAN 17 2012

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Five-Year Review of)
Natural Gas Company Uncollectible) Case No. 08-1229-GA-COI
Riders.)

**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") applies for rehearing of the December 14, 2011 Finding and Order ("Order") issued by the Public Utilities Commission of Ohio ("Commission" or "PUCO"). Through this Application for Rehearing, OCC seeks to protect all residential natural gas utility customers from the potential cost implications derived from the collection of uncollectible expenses should the PUCO not fully consider Consumer Advocates' Comments¹ and recommendations intended to improve the utilities' credit and collection policies.

Pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35, the Order was unjust, unreasonable and unlawful in the following regards:

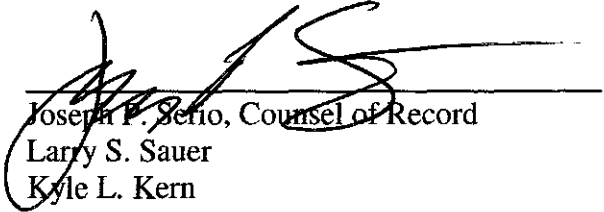
- A. The Commission Erred By Unreasonably And Unlawfully Requiring Information from Natural Gas Utilities to be "Informally Submitted" to the PUCO Staff (and "Not to be filed") in a Public and Transparent Manner.
- B. The Commission Violated R.C. 4903.09 By Failing to State the Reasons Upon Which Certain Conclusions in the Commission's Finding and Order were Based

¹ The Initial Comments filed jointly by OCC, Citizens Coalition, Communities United for Action ("CUFA") and Ohio Poverty Law Center ("OPLC") (collectively "Consumer Advocates") (January 28, 2011).

The reasons for granting this Application for Rehearing are set forth in the attached Memorandum in Support. Consistent with R.C. 4903.10 and the OCC claims of error, the PUCO should modify its Order.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL



Joseph P. Serio, Counsel of Record
Larry S. Sauer
Kyle L. Kern
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9565 – Telephone (Serio)
(614) 466-1312 – Telephone (Sauer)
(614) 466-9585 – Telephone (Kern)
serio@occ.state.oh.us
sauer@occ.state.oh.us
kern@occ.state.oh.us

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. PROCEDURAL HISTORY	2
III. STANDARD OF REVIEW	4
IV. ARGUMENT.....	5
A. The Commission Erred By Unreasonably And Unlawfully Requiring Information from Natural Gas Utilities to be “Informally Submitted” to the PUCO Staff (and “Not to be filed”) in a Public and Transparent Manner.....	5
B. The Commission Violated R.C. 4903.09 By Failing to State the Reasons Upon Which Certain Conclusions in the Commission’s Finding and Order were Based.	10
V. CONCLUSION.....	16

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Five-Year Review of)
Natural Gas Company Uncollectible) Case No. 08-1229-GA-COI
Riders.)

MEMORANDUM IN SUPPORT

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") submitted Initial Comments² pursuant to the Attorney Examiner's November 3, 2010 and January 10, 2011 Entries. The Comments were also in response to the Public Utilities Commission of Ohio ("PUCO" or "Commission ") request for comments concerning the NorthStar Consulting Group ("NorthStar") Audit Report ("NorthStar Report") that was filed in this docket on December 9, 2010. The Comments filed by OCC were crafted in such a way that offered feedback on specific recommendations contained in the NorthStar Report. In addition, OCC provided recommendations intended to improve the efficiency and effectiveness of the credit and collection process whereby Local Distribution Companies ("LDCs") are better able to recover the millions of dollars associated with natural gas utility service bad debts.

The OCC Comments were intended to help assure the 3.1 million residential consumers served by Columbia Gas of Ohio, Inc. ("Columbia"), East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion"), Vectren Energy Delivery of Ohio ("Vectren"),

² The Initial Comments filed jointly by OCC, Citizens Coalition, Communities United for Action ("CUFA") and Ohio Poverty Law Center ("OPLC") (collectively "Consumer Advocates").

and Duke Energy Ohio (“Duke”) that they are not subjected to unjust and unreasonable charges through the UEX Rider.³ The Commission erred by declining to consider any comment that were deemed by the PUCO to not directly respond to items raised by the NorthStar Report.

II. PROCEDURAL HISTORY

On May 27, 2003, Columbia, Dominion, Vectren, Northeast Ohio Natural Gas Corp. (“Northeast”), and Oxford Natural Gas Company (“Oxford”) (collectively, “Applicant Utilities”) filed an Application (“Joint Application”), pursuant to R.C. 4929.11. The Applicant Utilities sought approval of an automatic mechanism to recover uncollectible expense (“UEX”) from customers.⁴

On August 8, 2003, OCC filed Comments opposing the Joint Application. OCC raised several issues for Commission consideration including the potential that 100 per cent automatic recovery of uncollectible expenses would reduce the utilities’ incentives to diligently manage credit and collection activities resulting in higher costs for customers.⁵

On December 17, 2003, the Commission issued its Finding and Order. The Commission required an investigation into the automatic adjustment mechanisms,

³ September 2010 Ohio Statistical Customer Account Receivable (“OSCAR”) Report.

⁴ *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, Case No. 03-1127-GA-UNC, Application (May 27, 2003) at 1.

⁵ Id. OCC Comments (August 8, 2003) at 2.

including the impact of any changes to the companies' credit and collection policies and procedures after the UEX was in effect for five years.⁶

On February 5, 2009, the PUCO Staff filed a report ("Staff Report") concerning the five-year review of the uncollectible riders. The Staff Report included a number of recommendations including the extension of the UEX rider mechanism for an additional five years (without an additional Staff investigation) and an annual reporting requirement by the utilities.⁷ On March 23, 2009, OCC filed Comments in which OCC noted that the Staff Report failed to discuss, review, analyze, or make any recommendations concerning the credit and collection practices and policies of the gas utilities.⁸

On August 19, 2009, the Commission issued a Finding and Order in which the PUCO ruled that a better understanding of the companies' credit and collection policies was necessary in order to determine the effectiveness of the policies in minimizing uncollectible expense. In the August 19, 2009 Finding and Order the Commission stated:

To assist the Commission with the evaluation of the companies' collection policies, practices, and performance, the Commission will issue the request for proposal (RFP) for consulting services attached to this entry. Our intention is to select a consultant to: audit, evaluate, and recommend improvements in the collection policies, practices, and performance of the four largest natural gas companies, Vectren, Dominion, Duke Energy Ohio (Duke), and Columbia; [1] evaluate whether these four companies' collection practices and policies are effective in minimizing uncollectible expense; [2] ascertain benchmarks to be used by the Commission to monitor the effectiveness of all Ohio natural gas companies' collection policies, practices, and performance; and [3] recommend

⁶ Id. Finding and Order (December 17, 2003) at 15.

⁷ *In the Matter of the Five-Year Review of the Natural Gas Company Uncollectible Riders*, Case No. 08-1229-GA-COI, Staff Report (February 5, 2009) at 5.

⁸ OCC Comments (March 23, 2009) at 4.

“best practices” to be employed by natural gas companies in the state of Ohio to minimize uncollectible expense.⁹

On September 30, 2009, the Commission issued an Entry selecting NorthStar to perform the audit of the credit and collection practices of the four major natural gas utilities in Ohio that have implemented UEX recovery mechanisms: Columbia, Dominion, Vectren and Duke.¹⁰

On May 3, 2010, the NorthStar Report was filed with the Commission, and specifically evaluated the credit and collection policies and practices of Columbia, Dominion, Vectren and Duke.

On January 28, 2011, Initial Comments were filed by the OCC, Neighborhood Environmental Coalition, Consumers for Fair Utility Rates, Cleveland Housing Network, The Empowerment Center of Greater Cleveland, Communities United for Action, and Ohio Poverty Law Center (“Consumer Advocates”), Columbia, Dominion and Vectren and on, February 25, 2011, Reply Comments were filed by Consumer Advocates and jointly by Columbia, Dominion and Vectren, pursuant to a January 10, 2010 Entry which granted a Motion for an extension of the procedural schedule.

On December 14, 2011, the Commission issued its Order in this proceeding from which OCC now seeks rehearing.

III. STANDARD OF REVIEW

Applications for Rehearing are governed by R.C. 4903.10 and Ohio Adm. Code 4901-1-35. This statute provides that, within thirty (30) days after issuance of an order

⁹ Finding and Order (August 19, 2009) at 6.

¹⁰ Entry (September 30, 2009) at 1.

from the Commission, “any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding.”¹¹ Furthermore, the application for rehearing must be “in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful.”¹²

In considering an application for rehearing, Ohio law provides that the Commission “may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefore is made to appear.”¹³ Furthermore, if the Commission grants a rehearing and determines that “the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the Commission may abrogate or modify the same * * *.”¹⁴

OCC meets the statutory conditions applicable to an application for rehearing pursuant to R.C. 4903.10. Accordingly, OCC respectfully requests that the Commission grant rehearing on the matters specified below.

IV. ARGUMENT

A. The Commission Erred By Unreasonably And Unlawfully Requiring Information from Natural Gas Utilities to be “Informally Submitted” to the PUCO Staff (and “Not to be filed”) in a Public and Transparent Manner.

Ohio law establishes requirements for the PUCO that assures the regulatory process is open and transparent. For example, R.C. 4905.07 specifically requires that information at the PUCO be open and transparent:

¹¹ R.C. 4903.10.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

Except as provided in section 149.43 of the Revised Code and as consistent with the purposes of Title XLIX [49] of the Revised Code, all facts and information in the possession of the public utilities commission shall be public, and all reports, records, files, books, accounts, papers, and memorandums of every nature in its possession shall be open to inspection by interested parties or their attorneys.

In addition, R.C. 4901.12 states, “all proceedings of the public utilities commission and all documents and records in its possession are public records.” The above statutory requirements should govern the PUCO’s actions in this proceeding and result in the public filing of all materials prepared by the utilities in compliance with the directives issued in the Commission’s Order in this case.

The PUCO has previously acknowledged that “[a]ll proceedings at the Commission and all documents and records in its possession are public records, except as provided in Ohio’s public records law (149.43, Revised Code) and as consistent with the purposes of Title 49 of the Revised Code.”¹⁵ Additionally, under R.C. 4905.07, “all facts and information in the possession of the public utilities commission shall be public, and all reports, records, files, books, accounts, papers, and memorandums of every nature in its possession shall be open to inspection by interested parties or their attorneys.”

The PUCO also has also acknowledged that R.C. 4901.12 and R.C. 4905.07 “provide a strong presumption in favor of disclosure, which the party claiming protective status must overcome.”¹⁶ The PUCO’s rules on protective orders recognize this presumption of disclosure. Ohio Adm. Code 4901-1- 24(D) states, “Any order issued

¹⁵ *In the Matter of the Application of The Ohio Bell Telephone Company for Approval of an Alternative Form of Regulation*, Case No. 93-487-TP-ALT, Entry (November 25,2003) (“93-487 Entry”) at 3.

¹⁶ *In the Matter of the Joint Application of the Ohio Bell Telephone Company and Ameritech Mobile Services, Inc. for Approval of the Transfer of Certain Assets*, Case No. 89-365-RC-ATR, Opinion and Order (October 18,1990) (“89-365 O&O”), 1990 Ohio PUC LEXIS 1138 at *5.

under this paragraph shall minimize the amount of information protected from public disclosure.”

Under R.C. 4901.12, all PUCO proceedings and all documents and records in the PUCO’s possession, are public records. These statutes,¹⁷ specifically applicable to the Commission, provide a strong presumption in favor of disclosure. These statutes also recognize exceptions to the Commission’s open records policy found in Ohio’s Public Records Law, R.C. 149.43.

Yet despite this requirement, the Commission in its Finding and Order specifically directed Companies providing information responsive to Commission directives to provide such information informally to the Commission Staff, which would seem to contradict the law. The Finding and Order states:

Finally, the Commission notes that this Finding and Order contains many directives and the Commission directs that any information required by these directives **should not be filed in this docket, but should be informally submitted to Staff for review**, unless specified otherwise herein. Consequently, the Commission finds that the purpose of this docket has been fulfilled and that this docket shall be closed of record.¹⁸

Not only does this directive contradict the plain meaning and intent of R.C. 4905.07, but it also serves to hinder the very objective that the Commission identified when the NorthStar Report was commissioned -- to evaluate the collection policies and practices of Ohio’s LDCs, to establish benchmarks to determine program effectiveness and to recommend the best practices to follow in the future. The Commission has failed to state its rationale for not requiring information to be filed publicly. This lack of transparency is especially of concern in light of the magnitude of the LDCs bad debt. As noted in the

¹⁷ See also Ohio Adm. Code 4901-1-24(D) and 4901-1-27(B)(7)(e).

¹⁸ Order at 21. (Emphasis added).

NorthStar Report between 2007 and 2009, the LDC's reported a combined bad debt expense of \$399.4 million.¹⁹ In 2010, the annual bill impact for bad debt expenses for an average residential consumer using 95 MCF of natural gas varied between \$12.86 for Vectren customers to \$24.76 for Duke customers.²⁰

Certainly to the extent that the information will be submitted to the PUCO Staff, then the additional step of taking the information and docketing it cannot under any circumstances be seen to be burdensome. Furthermore, there is no explanation or justification provided by the Commission for keeping such information out of the public eye. Moreover, none of this information, on its face meets the requirements for trade secrets under R.C. 1331.61(D) that would permit the information not being filed in an open docket.

It is interesting to note that in this same docket, the NorthStar Report was initially filed with certain portions redacted because Columbia and Duke sought a protective order to protect the confidentiality of the information contained in the filed document. The Commission issued an Entry and denied the Motions for Protection. The Commission stated:

The Commission has reviewed the information included in the motions for protective order filed by Columbia and Duke, as well as the assertions set forth in the supportive memorandum, OCC's memorandum contra, and the companies' replies. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court²¹ the

¹⁹ NorthStar Report, Exhibit I-4, at I-5. The bad debt expense for Columbia Gas was \$189.5 million, for Dominion East Ohio was \$188.9 million, and \$21 million for Duke Energy. Vectren data was not included in the summary.

²⁰ Consumer Advocates Joint Comments, at Attachment 1

²¹ See *State ex-rel. the Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St. 3d 513, 524-525.

Commission finds that the audit report does not contain trade secret information. Therefore, the Commission finds the motions for protective order should be denied in their entirety. Accordingly, on December 7, 2010, the Commission's docketing division should release the unredacted pages of the audit report filed by NorthStar in this docket on May 3, 2010.²²

In light of the fact that the Commission previously ruled that the information being reviewed did not rise to the level of trade secret, and did not deserve to be protected from public scrutiny, the Commission should not now step back from its earlier decision. Moreover, there is nothing about the PUCO's general supervisory and oversight responsibilities involving the public utilities, R.C. 4905.06, that exempts the PUCO from ensuring that the public has full and open access to information that affects every aspect of the provision of public utilities' services including safety and reliability

Thus the PUCO has a legal obligation under the public records requirements to ensure that the public be kept aware of utility activity and filings required by the PUCO. Failure to require LDCs to publicly file such information is not consistent with the public records obligation. Otherwise, the public has no information and notice to know when such information might be available at the PUCO, or how to go about obtaining access to such information. Causing a party to have to submit numerous and repeated public information requests would be unreasonable, especially in light of the fact that parties would not otherwise know when the LDCs submitted the information to Staff informally.

The OCC requests that the PUCO correct this error by requiring LDCs to publicly file documents and file all information provided to the Staff in compliance with PUCO directives in this case.

²² Entry at 4 (November 3, 2010).

B. The Commission Violated R.C. 4903.09 By Failing to State the Reasons Upon Which Certain Conclusions in the Commission's Finding and Order were Based.

The Commission is a creature of statute, and as such does not have the authority to act beyond the authority provided under Ohio statutes.²³ As such, a Commission Order must comply with the statutory requirements of R.C. 4903.09. R.C. 4903.09 states:

In all contested cases heard by the public utilities commission, a complete record of all of the proceedings shall be made, including a transcript of all testimony and of all exhibits, and the commission shall file, with the records of such cases, **findings of fact and written opinions setting forth the reasons prompting the decisions arrived at, based upon said findings of fact.** (Emphasis added).

In this case, the Order that the Commission issued on December 14, 2011 violated the above statutory requirements. Specifically, the Consumer Advocates made Comments to the NorthStar Report which the Commission disregarded without record evidence or explanations for the reasons prompting the Commission's decision.

In accordance with Commission rules,²⁴ the Commission issued an Entry that established a process where interested parties were permitted to submit comments. The Commission Entry stated:

At this time, the Commission finds it appropriate to allow interested persons to file comments on the audit report filed by NorthStar on May 3, 2010, as revised. Therefore, comments and

²³ See, e.g., *Canton Storage and Transfer Co. v. Public Util. Comm.* (1995), 72 Ohio St.3d 1, 5, 647 N.E.2d 136.

²⁴ Ohio Adm. Code 4901-1-28 (E). ("Unless otherwise ordered by the commission, in all other cases in which the commission orders an investigation to be performed by staff and the filing of a report, the report shall be deemed admitted into evidence at the time it is filed with the commission, but all or part of such report may subsequently be stricken upon motion of the commission, the legal director, the deputy legal director, or an attorney examiner, or upon motion of any party for good cause shown. If a staff report described in this paragraph is admitted into evidence, interested persons shall have some opportunity, to be determined by the commission, to submit testimony, file comments, or file objections to the report.)

reply comments on the audit report may be filed by January 14, 2011, and February 11, 2011, respectively.²⁵

The Entry asked for “comments on the [NorthStar] Report,” and did not include any language that restricted the nature or extent of the comments made on the NorthStar Report. Consumer Advocates provided Comments on the NorthStar Report. Those Comments were designed to provide the Commission with information and analysis of the Companies’ credit and collections policies, practices, and performance and assess their impact on the Companies’ uncollectible expense rider consistent with the scope and purpose of the audit as articulated by the Commission in its request for proposal that led to the engagement of NorthStar.²⁶

Moreover, further supporting the view that comments and discussions should not be limited to only the issues raised by the NorthStar Report is the manner in which Staff Reports are treated in rate cases. Parties to a rate case are not limited to only addressing the issues raised by the Company Application or the Staff Report. Rather, parties are able to raise objections to the Staff Report which include issues that were not raised by the Company or Staff Report.²⁷ As such, the Commission’s decision to disregard these Comments was wrong for a two reasons.

1. The Scope of the proceeding is not limited to the issues raised by the NorthStar Report.

It should be pointed out that the original purpose of the investigation, as it was articulated by the Commission, was to obtain recommendations for improving credit and

²⁵ Entry at 4 (November 3, 2010).

²⁶ Finding and Order at Request for Proposal (August 19, 2009).

²⁷ R.C. 4909.19 (C).

collection activities as the precursor in reducing uncollectible expense. The Commission stated:

The purpose of the audit is to reduce natural gas company uncollectible expense by recommending improvements to utility credit and collections practices.²⁸

The Comments that were filed by the Consumer Advocates recommended improvements to the credit and collection policies and practices of the LDCs intended to reduce uncollectible expense. As such, the comments filed by the Consumer Advocates were well within the scope of the investigation as it was originally anticipated by the Commission. Therefore, the Consumer Advocates Comments should have been considered.

2. The Commission unreasonably found that certain Consumer Advocates Comments were outside the scope of the proceeding.

The Consumer Advocates made recommendations intended to improve the credit and collection policies and practices of the LDCs in an effort to reduce the uncollectible expense that all customers are being asked to pay. The Commission ignored certain of the Consumer Advocates' recommendations. The Commission stated:

The Commission emphasizes that the purpose of the order permitting comments was to allow interested persons to respond to the audit report filed by NorthStar. While the Commission supports the discussion and development of additional reasonable and cost-effective conservation programs, the Commission finds that these comments by the Consumer Groups and Citizens Coalition do not concern topics discussed in the audit report or recommendations by NorthStar. Consequently, these comments exceed the scope of the audit and the Commission declines to discuss or adopt them in this proceeding; therefore, the requests should be denied.²⁹

²⁸ August 19, 2009 Order, Request for Proposal No. S 09-CC-1, at 1.

²⁹ Order at 20.

The Commission Order declined to consider specific recommendations that were made by the Consumer Advocates on the basis that certain comments exceeded the scope of the audit that was performed by NorthStar.³⁰ There was no explanation or rationale given as to why the comments were considered outside the scope of the audit.

The following are the recommendations made by the Consumer Advocates that the Commission considered to be outside the scope of the NorthStar Report:

- Just and reasonableness of the bad debt expense that LDC's collect from residential customers.³¹ (Consumer Advocates Comments at 15-16)
- Evaluate the level of bad debt for Choice customers compared to non-Choice customers to determine if there is a substantial difference.³² (Consumer Advocates Comments at 35-36)
- Adopt credit and collection best practices across both the larger and smaller LDCs.³³ (Consumer Advocates Comments at 36-39)
- Establish a reasonable review process to determine if the changes required by the Commission in fact reduce uncollectible expense.³⁴ (Consumer Advocates Comments at 12)
- Discern if separate mailings of disconnection notices has an impact on reducing the number of overall disconnections. (Consumer Advocates Comments at 26-27)
- Determine if the disclosure of the least-cost extended payment plan has an impact on reducing the occurrences of disconnection.³⁵ (Consumer Advocates Comments at 32)
- Prohibit recovery of bad debt expense when utilities are not meeting the minimum gas service standards concerning the annual actual meter reading requirements.³⁶ (Consumer Advocates Comments at 34)

³⁰ Order at 20.

³¹ Order at 6

³² Order at 7

³³ Order at 21

³⁴ Order at 21

³⁵ Order at 11

³⁶ Order at 13

- Make customers whole for uncollectible debt that the LDC's recovered while ignoring payment plan requirements in the Commission Winter Reconnection Order.³⁷ (Consumer Advocates Comments at 43)
- Determine the extent that the bill payment costs contribute to customer non-affordability.³⁸ (Consumer Advocates Comments at 34-35)
- Require LDC's to offer adjusted due dates to help customers better manage their utility payments.³⁹ (Consumer Advocates Comments at 33)
- Encourage reductions in bad debt write off through LDC sponsorship in shareholder-funded assistance programs.⁴⁰ (Consumer Advocates Comments at 46-47)
- Emphasize opportunities to reduce uncollectible expenses through conservation and weatherization programs.⁴¹ (Consumer Advocates Comments at 45-46)

Without rationale, the Commission declined to consider information that could have enabled it to more comprehensively improve the credit and collection policies and practices of the Local Distribution Companies ("LDCs") under review, and in the process reduced the uncollectible expenses collected from customers.

In reviewing the NorthStar Report, the goal of the Consumer Advocates was to effectuate additional reductions in credit and collection costs by providing substantive comments that supported, augmented, or refuted NorthStar findings and recommendations. After all, limiting the scope of the comments to only those recommendations that were made by NorthStar could diminish from the original purpose of the audit. While OCC maintains that the NorthStar Report provided a good summary of the credit and collection policies and practices of the LDC's, the report is not -- and

³⁷ Order at 17

³⁸ Order at 19

³⁹ Consumer Advocates Comments at 33

⁴⁰ Order at 20

⁴¹ Order at 20

more importantly does not purport to be -- a comprehensive list of every possible recommendation that can reduce bad debt expense. The Commission failed to consider recommendations made by others merely on the basis that NorthStar did not also consider a recommendation. This is especially significant given that the Commission did not provide an opportunity for stakeholders to provide input when the Request for Proposal was being developed for the specific topics that a consultant was to consider as part of the audit process. Furthermore, the Commission never sought NorthStar's opinion on the issues raised by Consumer Advocates that were outside the scope of the NorthStar Report.

Before declining to consider the recommendations of the Consumer Advocates, the Commission should be aware that advocates have long been rightfully concerned about the UEX rider costs. Enabling LDC's to recover hundreds of millions of dollars through a process that basically rewards lack of adequate credit and collection incentives is ill-advised. In fact, the impetus for the investigation into the credit and collection policies and practices stems from Comments filed by OCC eight years ago.⁴² In 2003, OCC asserted that the UEX recovery mechanism reduced incentives for the LDC's to collect bad debt. The NorthStar Report validated OCC's concern by concluding:

The use of 100 percent recovery riders, rather than bad debt recovery through base rates, also eliminates any risk of non-recovery for the utility. Together, these factors create the potential for higher total rates for customers.⁴³

⁴² *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, Case No. 03-1127-GA-UNC, OCC Comments (August 8, 2003) at 2

⁴³ NorthStar Report at II-1.

To protect customers, the OCC urges the Commission to grant rehearing and to consider all of the recommendations that were made in comments; not just NorthStar recommendations.

V. CONCLUSION

For all the reasons discussed above, the Commission should grant OCC's Application for Rehearing, and require the LDCs to file any information provided to Staff in an open docket so that it is available for review by all interested parties. The Commission should also consider the Comments submitted by Joint Advocates and address and incorporate those comments that would improve the credit and collection policies and practices of the LDCs under review, and in the process reduce the uncollectible expenses collected from customers.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL



Joseph P. Serio, Counsel of Record

Larry S. Sauer

Kyle L. Kern

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-9565 – Telephone (Serio)

(614) 466-1312 - Telephone (Sauer)

(614) 466-9585 – Telephone (Kern)

serio@occ.state.oh.us

sauer@occ.state.oh.us

kern@occ.state.oh.us

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing *Application for Rehearing* has been served upon the below-named counsel via regular U.S. Mail, postage prepaid this 13th day of January 2012.


Joseph P. Seale
Assistant Consumers' Counsel

SERVICE LIST

Brooke E. Leslie
Stephen B. Seiple
Columbia Gas of Ohio Inc.
200 Civic Center Drive, P.O. Box 117
Columbus, Ohio 43216-0117
bleslie@nisource.com
ssieple@nisource.com

Andrew J. Sonderman
Kegler, Brown, Hill & Ritter, LPA
65 East State Street
Suite 1800
Columbus, Ohio 43215-4294
asonderman@keglerbrown.com

Mark A. Whitt
Melissa L. Thompson
Carpenter, Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
whitt@carpenterlipps.com
thompson@carpenterlipps.com

Angela L. Anderson
NorthStar Consulting Group
900 East Main Street, Suite 104
Santa Maria, CA 93454
info@NorthStarconsulting.net

Amy B. Spiller
Elizabeth Watts
Duke Energy of Ohio, Inc.
139 East Fourth Street, 25 Atrium II
Cincinnati, Ohio 45202
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com

William Wright, Chief
Public Utilities Commission of Ohio
180 East Broad Street
6th Floor
Columbus, Ohio 43215
william.wright@puc.state.oh.us

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour & Pease
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
mhpetricoff@vorys.com
smhoward@vssp.com

Gretchen J. Hummel
McNees, Wallace & Nurick
21 East State Street, 17th Floor
Columbus, Ohio 43215
ghummel@mwncmh.com

Michael R. Smalz
Joseph V. Maskovyak
Ohio Poverty Law Center
555 Buttrick Avenue
Columbus, Ohio 43215-1137
msmalz@ohiopoveritylaw.org
jmaskovyak@ohiopoveritylaw.org

Joseph P. Meissner
The Legal Aid Society of Cleveland
1223 West 6th Street
Cleveland, Ohio 44113
jpmisn@lasclev.org

Noel M. Morgan
Legal Aid Society of Southwest Ohio LLC
215 East Ninth Street
Cincinnati, Ohio 45202
nmorgan@lascinti.org