

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review )  
of the Alternative Rate Plan and )  
Exemption Rules Contained in Chapter ) Case No. 11-5590-GA-ORD  
4901:1-19 of the Ohio Administrative )  
Code. )

ENTRY ON REHEARING

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. At this time, the Commission is reviewing Chapter 4901:1-19, Ohio Administrative Code (O.A.C.), entitled Alternative Rate Plan; Exemptions.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine:
  - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
  - (b) Whether the rules need amendment or rescission to give more flexibility at the local level;
  - (c) Whether the rules need amendment to eliminate unnecessary paperwork;
  - (d) Whether the rules duplicate, overlap with, or conflict with other rules; and

- (e) Whether the rules have an adverse impact on businesses and whether any such adverse impact has been eliminated or reduced.
- (3) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.
- (4) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, features must be incorporated into the draft rules to eliminate or adequately reduce any adverse impact. The proposed revisions to the rules must be sent to the Common Sense Initiative Office (CSI), and CSI will then review the proposed revisions and provide recommendations.
- (5) The Commission's Staff (Staff) evaluated the rules contained in Chapter 4901:1-19, O.A.C., and recommended amendments to and, in some instances, rescission of several rules.
- (6) On November 22, 2011, the Commission issued Staff's proposed amendments and requested comments to assist in the review. Comments were filed by Vectren Energy Delivery of Ohio (Vectren) and The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion), Duke

Energy Ohio, Inc. (Duke), Columbia Gas of Ohio, Inc. (Columbia), the Ohio Gas Marketers Group (OGMG), the Ohio Consumers' Counsel (OCC), and Ohio Partners for Affordable Energy (OPAЕ). Reply comments were filed by Vectren and Dominion, Duke, Columbia, OGMG and the Retail Energy Supply Association, OCC, and OPAЕ.

- (7) Staff summarized the filed comments and made recommendations. Additionally, Staff drafted the proposed rules with Staff's recommended changes (Staff's revised recommended changes).
- (8) Thereafter, by Entry issued on July 2, 2012 (July 2 Entry), the Commission directed Staff to send its comment summary, revised recommended changes, and BIA evaluation to CSI for review and recommendations in accordance with Section 121.82, Revised Code.
- (9) On August 1, 2012, Columbia, Duke, Dominion, and Vectren (collectively, Applicants) filed a collective application for rehearing of the July 2 Entry, arguing that it was unreasonable and unlawful. Thereafter, by Entry on Rehearing issued on August 22, 2012, the Commission denied the collective application for rehearing on the basis that the July 2 Entry merely directed Staff to provide a comment summary, revised recommended changes, and BIA evaluation to CSI, and did not adopt Staff's revised recommended changes. The Commission further found, however, that, through their collective application for rehearing, Applicants had essentially filed comments on Staff's revised recommended changes. Consequently, the Commission permitted all parties to file supplemental comments and reply comments on Staff's recommended changes. Supplemental comments were filed by OPAЕ, Columbia, OCC, Dominion, and Vectren. Supplemental reply comments were filed by OCC, Columbia, Duke, Dominion, Vectren, OGMG, and RESA.
- (10) CSI's memorandum commenting on the proposed rule package was filed on November 16, 2012. In its

memorandum, CSI stated that is had no recommendations for this rule package and recommended that the Commission proceed in filing the proposed rules with the Joint Committee on Agency Rule Review (JCARR).

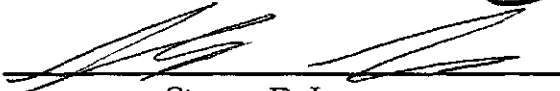
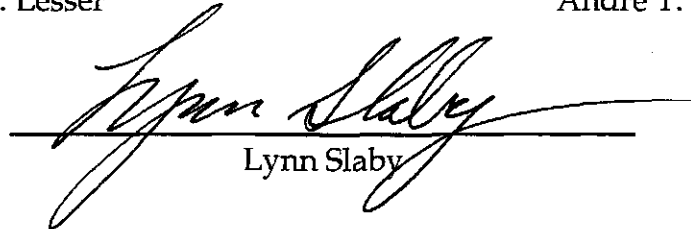
- (11) Thereafter, by Finding and Order issued on December 11, 2012, the Commission amended Rules 4901:1-19-01 through 4901:1-19-15, O.A.C.
- (12) On January 11, 2013, applications for rehearing were filed by Columbia and OCC.
- (13) In its application for rehearing, Columbia contends that that the Commission's December 11, 2012, Finding and Order is unreasonable and unlawful because it contradicts the revisions to Section 4929.05, Revised Code, imposes procedural requirements that are contrary to law, and fails to give proper effect to Sections 4929.05 and 4909.18, Revised Code.
- (14) In its application for rehearing, OCC contends that the Commission erred in its December 11, 2012, Finding and Order by failing to adequately protect due process rights under the amended rules in cases involving applications to exit the merchant function.
- (15) The Commission grants the applications for rehearing filed by Columbia and OCC for the purpose of further consideration of the issues specified in the applications for rehearing.

It is, therefore,

ORDERED, That the applications for rehearing filed by Columbia and OCC be granted for further consideration of the matters specified in the applications for rehearing. It is, further,


ORDERED, That a copy of this Entry on Rehearing be sent to the gas-pipeline industry service list, and served upon all regulated natural gas companies, pipeline companies, certified retail natural gas service suppliers, CSI, OCC, the Ohio Gas Association, Ohio Petroleum Council, the Ohio Oil and Gas Association, and all other interested persons of record.

## THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman  
Steven D. Lesser  
Andre T. Porter  
Lynn Slaby

MWC/sc

Entered in the Journal

JAN 30 2013  
Barcy F. McNealBarcy F. McNeal  
Secretary