

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) Case No. 11-5590-GA-ORD
Chapter 4901:1-19 of the Ohio)
Administrative Code.)

SECOND 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) 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.
- (3) 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.
- (4) 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.

- (5) 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 (OPAE). Reply comments were filed by Vectren and Dominion, Duke, Columbia, OGMG and the Retail Energy Supply Association (RESA), OCC, and OPAE.
- (6) Thereafter, by Entry issued on July 2, 2012 (July 2 Entry), the Commission directed Staff to send its comment summary, Staff's revised recommended changes, and BIA evaluation to CSI for review and recommendations, in accordance with Section 121.82, Revised Code.
- (7) 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 OPAE, Columbia, OCC, Dominion, and Vectren. Supplemental reply comments were filed by OCC, Columbia, Duke, Dominion, Vectren, OGMG, and RESA.
- (8) CSI's memorandum commenting on the proposed rule package was filed on November 16, 2012. In its memorandum, CSI stated that it 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).

- (9) Thereafter, by Finding and Order issued on December 12, 2012, the Commission amended Rules 4901:1-19-01 through 4901:1-19-15, O.A.C.
- (10) On January 11, 2013, applications for rehearing of the Commission's December 12, 2012, order were filed by Columbia and OCC. Memoranda contra Columbia's application for rehearing were filed by OCC and OPAE on January 22, 2013. Memoranda contra OCC's application for rehearing were filed by OGMG and RESA, as well as Dominion, on January 22, 2013. Thereafter, by Entry issued on January 30, 2013, the Commission granted both applications for rehearing for the purpose of further consideration of the issues specified in the applications for rehearing.
- (11) By entry on rehearing issued February 27, 2013, the Commission denied OCC's application for rehearing and granted, in part, and denied, in part, Columbia's application for rehearing. In pertinent part, the Commission found it appropriate to modify Rule 4901:1-19-06(C), O.A.C., to clarify which portion of the rule applies to alternative rate plan applications that seek an increase in amounts collected from ratepayers due to infrastructure investment.
- (12) On March 29, 2013, Columbia filed a second application for rehearing of the Commission's February 27, 2013, Entry on Rehearing (first entry on rehearing). In its second application for rehearing, Columbia contends that the first entry on rehearing was unreasonable and unlawful because its revisions to Rule 4901:1-19-06(C), O.A.C., unlawfully add to the requirements of the statute, contradict the revisions to Section 4929.05, Revised Code, effected by Am. Sub. H.B. 95, impose procedural requirements that are contrary to law, and fail to give proper effect to Sections 4929.05 and 4909.18, Revised Code.
- (13) Columbia proposes that the Commission modify Rule 4901:1-19-06, O.A.C., to read as follows:

- (C) Exhibits to an alternative rate plan application. To determine just and reasonable rates pursuant to section 4929.05 of the Revised Code, Ffor alternative rate plan applications that are for an increase in any rate amounts collected from ratepayers due to infrastructure investment, pursuant to section 4929.05 of the Revised Code, to determine just and reasonable rates, applicants shall submit the exhibits described in divisions (A) to (D) of section 4909.18 of the Revised Code, and standard filing requirements pursuant to rule 4901-7-01 of the Administrative Code (SFRs) when filing an alternative rate case unless otherwise waived by rule 4901:1-19-02(D) of the Administrative Code. An alternative rate plan application that proposes infrastructure investment shall be considered to be for an increase in any rate if the proposed rates, joint rates, tolls, classifications, charges, or rentals are not based upon the billing determinants and cost allocation methodology utilized by the public utilities commission in the applicant's most recent rate case proceeding.

Columbia argues that this language properly identifies and delimits those alternative rate plan applications that the Commission determines to be an application for "an increase in any rate," which enables the Commission to ensure that the filing requirements for base rate plan applications are not applied to alternative rate plan applications inconsistently with legislative intent.

- (14) No one filed a memorandum contra Columbia's second application for rehearing.
- (15) The Commission finds that the modifications to Rule 4901:1-19-06(C), O.A.C., as proposed by Columbia, will identify which applications are for an increase in rates and will enable the Commission to ensure that the filing requirements for base rate plan applications are applied consistent with the legislative intent. Therefore, the Commission finds that Columbia's second application for

rehearing should be granted and the Commission has modified Rule 4901:1-19-06(C), O.A.C., accordingly, as set forth in the attachment to this entry.


It is, therefore,

ORDERED, That the second application for rehearing filed by Columbia is granted. It is further,

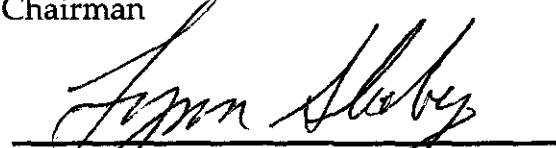
ORDERED, That Rule 4901:1-19-06, O.A.C., as amended in the attachment to this entry, be adopted. It is, further,

ORDERED, That a copy of this Second 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, the 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

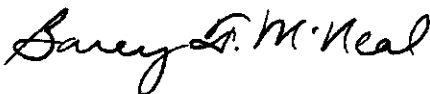

Lynn Slaby


M. Beth Trombold

MWC/dah

Entered in the Journal

APR 24 2013



Barcy F. McNeal
Secretary

*****DRAFT - NOT FOR FILING*****

4901:1-19-06 Filing requirements for alternative rate plan applications filed pursuant to section 4929.05 of the Revised Code.

(A) Notice of intent

The applicant shall notify the commission staff by letter addressed to the directors of the utilities department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(B) Form of an application

- (1) All testimony supporting the application shall be filed with the application.
- (2) An applicant shall provide a copy of its plan to the office of the consumers' counsel and each party of record in its previous alternative rate plan or rate case proceeding. Such copies may be provided either in hard copy or by electronic service. The applicant shall keep at least one copy of its plan at the applicant's principal business office and on its web page or public inspection.
- (3) The applicant shall provide or cause to be provided a copy of the application to any person upon request.
- (4) An alternative rate plan application shall be designated by the commission's docketing division using the acronym ALT.

(C) Exhibits to an alternative rate plan application. To determine just and reasonable rates pursuant to section 4929.05 of the Revised Code, for alternative rate plan applications that are for an increase in rates, applicants shall submit the exhibits described in divisions (A) to (D) of section 4909.18 of the Revised Code, and standard filing requirements pursuant to rule 4901-7-01 of the Administrative Code (SFRs) when filing an alternative rate case unless otherwise waived by rule 4901:1-19-02(D) of the Administrative Code. An alternative rate plan application that proposes infrastructure investment shall be considered to be for an increase in rates if the proposed rates, joint rates, tolls, classifications, charges, or rentals are not based upon the billing determinants and cost allocation methodology utilized by the public utilities commission in the applicant's most recent rate case proceeding.

The applicant may use up to nine months of forecasted data for its unadjusted test

*****DRAFT - NOT FOR FILING*****

year operating income statement. However, the forecasted data shall use the corporate budget which has been approved by the highest level of officers of the applicant and is utilized to manage and operate the applicant on a day-to-day basis. Adjustments the applicant believes are necessary to make the corporate budget more appropriate for ratemaking purposes are to be presented on schedule C-3 of its filing requirements. Failure to use the corporate budget as the basis of the forecasted portion of the test year may result in the commission finding that the application is deficient. The applicant may request to file a two month update to provide actual financial data and significant changes in budgeted data (to be fully documented). Such a request shall be filed no later than the filing of the application.

- (1) For alternative rate plan applications that are for an increase in rates, as well as alternative rate plan applications that are not for an increase in rates, the applicant shall provide the following information. This additional information shall be considered to be part of the standard filing requirements for a natural gas company filing an alternative rate plan that is for an increase in rates. The applicant shall have the burden of proof to document, justify, and support its plan.
- (2) The applicant shall provide a detailed alternative rate plan, which states the facts and grounds upon which the application is based, and which sets forth the plan's elements, transition plans, and other matters as required by these rules. This exhibit shall also state and support the rationale for the initial proposed tariff changes for all impacted natural gas services.
- (3) If the applicant has been authorized to exempt any services, the applicant shall provide a listing of the services which have been exempted, the case number authorizing such exemption, a copy of the approved separation plan(s), and a copy of the approved code(s) of conduct.
- (4) The applicant shall provide a detailed discussion of how potential issues concerning cross-subsidization of services have been addressed in the plan.
- (5) The applicant shall provide a detailed discussion of how the applicant is in compliance with section 4905.35 of the Revised Code, and is in substantial compliance with the policies of the state of Ohio specified in section 4929.02 of the Revised Code. In addition, the applicant shall also provide a detailed discussion of how it expects to continue to be in substantial compliance with

*****DRAFT - NOT FOR FILING*****

the policies of the state specified in section 4929.02 of the Revised Code, after implementation of the alternative rate plan. Finally, the applicant shall demonstrate that the alternative rate plan is just and reasonable.

- (6) The applicant shall submit a list of witnesses sponsoring each of the exhibits in its application.