

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of Ohio Gas Company for an Increase in Gas Distribution Rates.	)	Case No. 17-1139-GA-AIR
	)	
In the Matter of the Application of Ohio Gas Company for Tariff Approval.	)	Case No. 17-1140-GA-ATA
	)	
In the Matter of the Application of Ohio Gas Company for Approval of Certain Accounting Authority.	)	Case No. 17-1141-GA-AAM
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**OBJECTIONS TO  
THE PUCO STAFF’S REPORT OF INVESTIGATION  
BY  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

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**I. INTRODUCTION**

In this case, Ohio Gas Company (“Ohio Gas”) seeks to increase the fixed monthly customer charge that its customers pay for natural gas service from \$5.45 to \$10.39.<sup>1</sup> This \$4.94 adjustment nearly doubles the current monthly customer charge. The Office of the Ohio Consumers’ Counsel (“OCC”) is the statutory representative of Ohio Gas’ 43,588 residential customers, who pay these charges.<sup>2</sup>

The Public Utilities Commission of Ohio’s (“PUCO”) Staff filed its Report of Investigation (“Staff Report”) in this case on November 22, 2017. Notably, the OCC supports the following findings, conclusions, and recommendations in the Staff Report and reserves the right to raise issues should the PUCO Staff change its positions:

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<sup>1</sup> See Staff Report at 17.

<sup>2</sup> See R.C. Chapter 4911.

- The PUCO Staff increased test year revenue to correct a billing determinant forecasting error within the commercial class that produced a higher forecasted Mcf sales resulting in higher test year revenue.
- Rate case expense was adjusted to reflect a five year amortization.

At the same time, the OCC has objections to the Staff Report, which are listed below.<sup>3</sup> OCC asks the PUCO to adopt these objections to the Staff Report when deciding how much Ohio Gas' customers should pay for gas distribution service. OCC's Objections pertain to issues under the Staff Report that are not just and reasonable. These objections meet the specificity requirement of Ohio Admin. Code 4901-1-28.

Lack of an objection to any aspect of the Staff Report should not preclude OCC from filing further pleadings or comments in this docket. Nor should it limit OCC's cross-examination or introduction of evidence or argument on any issue contained in the Staff Report or Application in the event the PUCO Staff reverses, modifies, or withdraws its position on the issue. OCC reserves the right to amend and/or to supplement its objections in the event that the PUCO Staff reverses, modifies, or withdraws its position on any issue contained in the Staff Report.

## **II. OBJECTIONS TO THE PUCO STAFF REPORT**

### **1. Rate of Return**

**Objection 1:** Under R.C. 4909.19, the PUCO shall cause an investigation of the facts set forth in the application, the exhibits attached to the application, and the matters connected to the application.<sup>4</sup> Despite these obligations, the Staff Report supported Ohio Gas's

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<sup>3</sup> See R.C. 4909.19 and Ohio Admin. Code 4901-1-28(B).

<sup>4</sup> See R.C. 4909.19.

proposed rate of return charged to Ohio Gas's customers based solely on the financial condition of the applicant.<sup>5</sup>

In reviewing only the financial condition of the Applicant, the Staff Report fails to fulfill its duty to investigate and recommend a rate of return that is "commensurate with returns being earned on investments attended by corresponding risk."<sup>6</sup> This standard for review is based on the fundamental ratemaking principles as enumerated in the landmark *Bluefield*<sup>7</sup> and *Hope*<sup>8</sup> cases cited in the Staff Report.<sup>9</sup> Under *Bluefield* and *Hope*, Ohio Gas is entitled to have an opportunity to earn a fair and reasonable rate of return. Instead of focusing solely on the financial condition of Ohio Gas, the Staff should have looked at the current conditions of the financial markets and the economy as well as the returns earned or authorized for other gas utilities in recommending a reasonable rate of return for the Applicant. The Staff Report's recommendation supporting the 9 percent rate of return is unreasonable and unlawful.

**Objection 2:** The Staff Report unreasonably supports Ohio Gas's proposed rate of return charged to Ohio Gas's customers, which is based on accepting the capital structure of 100 percent equity proposed by the Applicant. Using the 100% equity capital structure is flawed and unjust and unreasonable for ratemaking purposes.

**Objection 3:** The Staff Report unreasonably increases the cost of gas services to Ohio Gas's residential customers by recommending a rate of return of 8.50 percent to 9.50

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<sup>5</sup> Staff Report at 13, Paragraph 2.

<sup>6</sup> Id.

<sup>7</sup> *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm. Of W.Va.*, 262 U.S. 679 (1923).

<sup>8</sup> *Fed. Power Comm. V. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

<sup>9</sup> Staff Report at 13, Paragraph 1 citing *Bluefield* at 692-93; *Hope* at 603.

percent. This range of rate of return proposed in the Staff Report is excessive and unreasonable. The Staff Report's recommended rate of return, even at the bottom of the range, significantly exceeds the rate of return, generally in the range of 6.95 percent to 7.34 percent, authorized for gas distribution utilities nationwide in 2016 and 2017. The Staff Report has also failed to provide any reasonable support for its proposed range of rate of return.

**Objection 4:** The Staff Report inappropriately increases the cost of gas services to Ohio Gas's residential customers by recommending a range for rate of return that spans 100 basis points. This proposed range of 100 basis points is flawed and unreasonable. This range of 100 basis points is inconsistent with the range of approximately 50 basis points for rate of return used in the past in numerous Staff Reports for rate case proceedings.

In addition, the Staff Report unreasonably uses the 100 basis points range as a tool "to reward the Applicant for exemplary behavior or offer encouragement to alter behavior that the Commission believes could be improved...."<sup>10</sup> This misstates the purpose of using a range for rate of return. Based on established ratemaking principles and financial theories, the purpose of setting a range for a proposed rate of return is mainly to account for the uncertainty and estimation errors commonly associated with the estimation of rate of return, not for any unspecified policy prerogatives, such as to reward good behavior.

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<sup>10</sup> Staff Report at 13, Paragraph 2.

## **2. Straight-Fixed Variable Rate Design**

**Objection 5:** The Staff Report failed to recommend that the increase to the fixed monthly customer charge be phased in over two years.<sup>11</sup> Increasing the monthly customer charge over two years, instead of one year, would comply with PUCO precedent and the concept of gradualism, which is important in natural gas straight fixed variable rate proposals, as the PUCO has repeatedly stated.

## **3. Operating Income**

**Objection 6:** The Staff Report failed to recognize the corporate federal income tax rate reduction from 34% to 21% on Schedule C-4. The Staff Report's Schedule C-4 incorrectly calculates the payable federal income tax and the deferred federal income tax at the old corporate tax rate of 34% rather than the newly adopted federal corporate tax rate of 21%. This error overstates the total federal income taxes of Ohio Gas Company during the period when the rates established as a result of this case will be in effect.

## **4. Gross Revenue Conversion Factor**

**Objection 7:** The Staff Report failed to adjust the Gross Revenue Conversion Factor for the reduction in the old federal corporate income tax rate from 34% to 21% on Schedule A-1.1 line 11. The Gross Revenue Conversion Factor incorrectly calculated on PUCO Schedule A-1.1 is used of line 13 of PUCO Schedule A-1. This error overstates the revenue deficiency shown on line 15 of A-1, and also overstates the revenue increase recommended shown on line 17 of A-1.

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<sup>11</sup> Staff Report at 17.

## **5. Revenue Requirement**

**Objection 8:** The range of the Staff Report's recommended revenue increase of \$2,441,967 to \$2,873,410 is overstated as a result of the above objections.

## **III. CONCLUSION**

In conclusion, OCC objects to the above-mentioned provisions of the PUCO's Staff Report because they are not just and reasonable. OCC asks the PUCO to adopt these objections to the Staff Report when deciding how much Ohio Gas' customers should pay for gas distribution service.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing *Objections* was served by electronic transmission upon the parties below this 22<sup>nd</sup> day of December 2017.

/s/ Kevin F. Moore  
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Assistant Consumers' Counsel

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Summary: Objection Objections to the PUCO Staff's Report of Investigation by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Moore, Kevin F. Mr.