

**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**

**OPINION AND ORDER**

Entered in the Journal on February 21, 2018

**I. SUMMARY**

{¶ 1} The Commission adopts the joint stipulation and recommendation resolving all issues related to Ohio Gas Company's application to increase its natural gas distribution rates.

**II. PROCEDURAL BACKGROUND**

{¶ 2} Ohio Gas Company (Ohio Gas) is a natural gas company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.17, 4909.18, 4909.19, and 4909.43 enumerate the statutory requirements for an application to increase a public utility's rates. The Commission adopted Ohio Adm.Code 4901-7-01 and its appendix (Standard Filing Requirements), pursuant to R.C. 4901.13, 4909.04(C), and 4909.18. The Standard Filing Requirements specify the format for filing all information required in an application for an increase in rates and define the information that the Commission requires, pursuant to R.C. 4909.18(E).

{¶ 4} Pursuant to R.C. 4909.43(B), and in compliance with Ohio Adm.Code 4901-7-01, Appendix A, Chapter I of the Commission's Standard Filing Requirements, Ohio Gas filed, on

April 28, 2017, a notice of intent to file an application for an increase in rates. Concurrently, Ohio Gas also filed a motion to set a test period and date certain and for a waiver of certain filing requirements.

{¶ 5} By Entry issued on May 24, 2017, the Commission granted the requested waiver, approved the date certain of December 31, 2016, and established a test year of January 1, 2017, through December 31, 2017.

{¶ 6} On May 31, 2017, Ohio Gas filed its application to increase its natural gas distribution rates.

{¶ 7} By Entry dated July 26, 2017, the Commission accepted the application for filing as of May 31, 2017, and directed Ohio Gas to publish notice of the application pursuant to R.C. 4909.19.

{¶ 8} Pursuant to R.C. 4909.19, Staff conducted an investigation of the facts, exhibits, and matters relating to the application. On November 22, 2017, Staff filed a written report of its investigation (Staff Report).

{¶ 9} By Entry dated December 1, 2017, the attorney examiner issued a procedural schedule establishing deadlines for filing objections to the Staff Report, motions to strike any such objections, direct expert testimony, and motions to intervene. The Entry also scheduled a prehearing conference for January 4, 2018, and an evidentiary hearing for January 18, 2018. Finally, the attorney examiner granted a motion to intervene in these proceedings filed by the Ohio Consumers' Counsel (OCC).

{¶ 10} On December 5, 2017, the attorney examiner issued an Entry to schedule a local public hearing to occur in Defiance, Ohio, on January 3, 2018. Notice of the local public hearing was published in accordance with R.C. 4903.083, and proof of such publication was filed by Ohio Gas on January 9, 2018. At the local public hearing, no public testimony was offered.

{¶ 11} On December 13, 2017, Ohio Gas filed a motion to extend the due date for testimony in support of objections to the Staff Report. By Entry dated December 14, 2017, the attorney examiner granted the motion such that testimony in support of objections to the Staff Report, as well as any other direct expert testimony, was required to be filed by the parties no later than January 5, 2018.

{¶ 12} Objections to the Staff Report were filed by Ohio Gas and OCC on December 22, 2017.

{¶ 13} On January 2, 2018, Ohio Gas filed a motion to vacate the due date for testimony in support of objections to the Staff Report. The motion indicated that Ohio Gas and Staff appeared to have reached a resolution of the issues in these cases. The attorney examiner granted Ohio Gas's motion by Entry dated January 3, 2018.

{¶ 14} At the January 4, 2018 prehearing conference, the parties indicated that they were continuing to work towards a stipulated resolution but that additional time might be necessary.

{¶ 15} On January 10, 2018, Ohio Gas filed a motion requesting that the evidentiary hearing be continued for a period of two weeks in order to facilitate the parties' efforts toward settlement. By Entry dated January 12, 2018, the attorney examiner determined that the evidentiary hearing should be continued to February 1, 2018, in light of the parties' continuous efforts to reach and file a settlement agreement that would resolve the issues in these cases. The attorney examiner also determined that it would be beneficial to convene as previously scheduled on January 18, 2018, in order to solicit any public testimony and, if necessary, to discuss the parties' progress in negotiations.

{¶ 16} Consistent with the January 12, 2018 Entry, the evidentiary hearing was called on January 18, 2018. No public testimony was offered.

{¶ 17} On January 26, 2018, a joint stipulation and recommendation (Stipulation) was filed by Ohio Gas, Staff, and OCC (Joint Ex. 1). If adopted, the Stipulation would resolve all of the issues in these proceedings.

{¶ 18} On January 29, 2018, testimony in support of the Stipulation was filed by Joseph G. Bowser on behalf of Ohio Gas (Co. Ex. 8) and Wm. Ross Willis on behalf of OCC (OCC Ex. 2).

{¶ 19} The evidentiary hearing resumed on February 1, 2018, as directed by the attorney examiner, and the Stipulation and supporting exhibits, including the testimony of Mr. Bowser and Mr. Willis, were admitted into the record. No public testimony was offered.

### III. DISCUSSION

{¶ 20} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 21} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

{¶ 22} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* at 126. The Supreme Court of Ohio stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

#### A. *Summary of the Stipulation*

{¶ 23} As previously stated, a Stipulation signed by Ohio Gas, Staff, and OCC was filed on January 26, 2018. The Stipulation was intended by the parties to resolve all outstanding issues in these proceedings. Below is a summary of the provisions agreed to by the parties. The summary is not intended to replace or supersede the Stipulation.

{¶ 24} The parties agree that the schedules attached to the Stipulation as Appendix A, being revised schedules to the Staff Report of Investigation, contain the appropriate information to determine the gross revenue and the revenue increase that Ohio Gas should have the opportunity to collect as a result of these proceedings (Joint Ex. 1 at 3).

{¶ 25} The parties agree that a revenue increase of \$2,419,587, to be collected from customers through the non-gas cost recovery portion of Ohio Gas's total rate, is at the midpoint of the range produced by the upper and lower limits of the Staff's rate of return

recommendation in its Staff Report, as adjusted in the schedules attached as Appendix A, and is the amount of increase that should be authorized in these proceedings (Joint Ex. 1 at 3-4).<sup>1</sup>

{¶ 26} As stipulated by the parties, the jurisdictional rate base summary as of December 31, 2016, is as follows:

Plant in Service	\$87,764,343
Depreciation Reserve	(\$55,901,277)
Net Plant in Service	\$31,863,066
Construction Work in Progress	\$0
Working Capital Allowance	\$992,205
Contributions in Aid of Construction	\$0
Other Rate Base Items	(\$5,646,024)
<b>Rate Base</b>	<b>\$27,209,247</b>

(Joint Ex. 1 at App. A, Sched. B-1).

{¶ 27} The following information reflects Ohio Gas's adjusted operating revenue, adjusted operating expenses, and adjusted net operating income for the 12 months ended December 31, 2017, as stipulated by the parties:

<u>Operating Revenue</u>	
<b>Total Operating Revenue</b>	<b>\$13,404,196</b>

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<sup>1</sup> This agreed revenue increase of \$2,419,587 is based upon a return on equity of 9.00 percent.

Operating Expenses

Operations and Maintenance	\$8,046,714
Depreciation Expense	\$2,571,272
Taxes Other than Income Taxes	\$2,001,097
Income Taxes	\$156,959
<b>Total Operating Expenses</b>	<b>\$12,776,042</b>
<b>Net Operating Income</b>	<b>\$628,154</b>

(Joint Ex. 1 at App. A, Sched. C-2).

{¶ 28} As stipulated, under its present rates, Ohio Gas would have operating income of \$628,154. Applying this figure to Ohio Gas's stipulated rate base of \$27,209,247 yields a rate of return of 2.31 percent. The parties have recommended a rate of return of 9.00 percent on the stipulated base rate of \$27,209,247. Consequently, the parties have stipulated that the required operating income for Ohio Gas is \$2,448,832. Additionally, the parties have stipulated that a just and reasonable increase in the revenue requirement is \$2,419,587. (Joint Ex. 1 at App. A, Sched. A-1.)

{¶ 29} The parties agree that the agreed to increase should be collected from customers by increasing Ohio Gas's customer charge without any increase in the usage sensitive portion of Ohio Gas's rates (Joint Ex. 1 at 4).

{¶ 30} The parties agree that the tariff sheet attached to the Stipulation as Appendix B is expected to permit Ohio Gas the opportunity to collect from its customers no more than the agreed to increase plus current non-gas cost revenue, is reasonable, and should be approved (Joint Ex. 1 at 4).

{¶ 31} The parties agree that the customer notice contained in Appendix C attached to the Stipulation is reasonable and should be approved in order to permit Ohio Gas to properly notify its customers of the rate increase agreed to in the Stipulation (Joint Ex. 1 at 4).

{¶ 32} The parties recommend that the Commission timely approve the Stipulation in order for the rates and charges contained on the tariff sheet attached to the Stipulation (Appendix B) to become effective for all service rendered on and after March 1, 2018 (Joint Ex. 1 at 4).

{¶ 33} The parties are aware that the Commission is seeking comments regarding changes in federal tax law that became effective on January 1, 2018, in a separate proceeding, Case No. 18-47-AU-COI. The Stipulation is intended to address the recently enacted changes to federal corporate income taxes and represents a compromise of several issues raised by those changes. To that end, the tariff proposed in the Stipulation incorporates a reduction in the federal income tax rate from 34 percent to 21 percent. Incorporation of the lower tax rate reduces the increased revenue requirement from \$3,048,566 to \$2,419,587. As part of the resolution of the issues related to the changes in federal tax law, Ohio Gas understands that the Commission may order Ohio Gas to file a request to adjust rates in Case No. 18-47-AU-COI or another case. To the extent that that order would permit Ohio Gas to seek to increase rates, Ohio Gas agrees to waive its opportunity to request such an increase. To the extent that that order would require Ohio Gas to reduce its rates, Ohio Gas agrees to make an application to effect that change, but may do so under protest. Further, it is agreed and recommended that no party waives any legal, administrative, judicial, or appellate rights to challenge or support any change in the rates of Ohio Gas if such a change is in addition to the rates set out in the Stipulation. Further, it is agreed and recommended that the Commission find that the settlement of issues related to the changes in federal income tax rates in the Stipulation is not intended to serve as a precedent or indicate the position of any party regarding any other proceeding concerning the implementation of changes in federal income tax rates effective on January 1, 2018, and affecting a public utility other than Ohio Gas that is subject to regulation of its rates by the Commission. (Joint Ex. 1 at 4-5.)



{¶ 34} The parties agree that the Commission should approve the terms and conditions of service set out in Appendix B as PUCO No. 2. The effective date shall be upon approval of the application and Stipulation and the filing of a tariff in compliance with the orders of the Commission. (Joint Ex. 1 at 5.)

{¶ 35} The parties agree that notice of Ohio Gas's rate increase application has been properly published and all of the procedural requirements necessary to permit the Commission to authorize the increase agreed to in the Stipulation have been satisfied (Joint Ex. 1 at 6).

{¶ 36} The parties agree that Ohio Gas should include the customer notice, attached to the Stipulation as Appendix C, with the first utility bill that each customer receives after the rates approved in these proceedings are in effect (Joint Ex. 1 at 7).

{¶ 37} The parties agree that adjustments to depreciation accrual reserves contained in Appendix D attached to the Stipulation should be approved by the Commission for Ohio Gas's use until otherwise ordered (Joint Ex. 1 at 7).

#### ***B. Consideration of the Stipulation***

{¶ 38} Ohio Gas witness Joseph G. Bowser and OCC witness Wm. Ross Willis provided testimony indicating that the Stipulation is a product of serious bargaining among capable, knowledgeable parties. Specifically, Mr. Bowser testified that the Stipulation is the result of a process of negotiations involving experienced counsel representing members of several stakeholder groups. Mr. Bowser explained that the parties that took part in the negotiations were capable and knowledgeable about the issues raised in these cases and that the settlement process was open to all intervening parties. (Co. Ex. 8 at 8.) Mr. Willis also testified that the Stipulation is the product of a process where all parties were represented by experienced counsel that have participated in numerous regulatory proceedings before the Commission. Mr. Willis noted that there were extensive and meaningful negotiations among the parties and that the Stipulation represents a comprehensive compromise of the issues raised by the parties.

(OCC Ex. 2 at 5.) Therefore, upon consideration of the record, the Commission finds that the first criterion is met.

{¶ 39} With regard to the second criterion, Mr. Bowser asserted that the Stipulation benefits ratepayers and the public interest for several reasons. First, Mr. Bowser testified that Ohio Gas will have one of the lowest customer charges in Ohio among regulated natural gas companies even after the approval of the rates proposed in these cases. According to Mr. Bowser, customers benefit from the fact that the starting point for calculating the revenue increase is approximately \$189,000 below the rate increase requested by Ohio Gas and reflects a lower rate of return than reflected in the rate increase recommended by Staff at its upper bound. Additionally, Mr. Bowser testified that customers will benefit from an immediate adjustment to base rates to account for changes in the corporate federal income tax rate, which reduces the customer charge by \$1.01 monthly. Mr. Bowser also noted that Ohio Gas has agreed to forgo any increase for which it may be eligible as a result of the Commission-ordered investigation in Case No. 18-47-AU-COI. (Co. Ex. 8 at 8-9.)

{¶ 40} Next, Mr. Bowser testified that the Stipulation continues the certainty and predictability in customer rates that Ohio Gas's customers have experienced for the past three decades, dating back to the Company's last base rate increase in 1985. Mr. Bowser added that Ohio Gas's successful management of its operations has enabled the Company to avoid the need for rate riders to enhance revenues between rate cases. With respect to the rate design in particular, Mr. Bowser explained that the use of a customer charge provides rate stability for both Ohio Gas and its customers. Mr. Bowser noted that the customer charge benefits customers through predictable monthly bills, while Ohio Gas receives the benefit of a steady revenue stream that covers its essentially fixed costs. Finally, Mr. Bowser testified that the Stipulation also supports Ohio Gas's commitment to customer service. Mr. Bowser noted that, under the proposed tariff, residential and small commercial customers will continue to benefit from Ohio Gas's policy to not impose requirements on these customers to establish creditworthiness. Mr. Bowser further noted that Ohio Gas will also offer one free meter test per year, in accordance with Staff's recommendation. (Co. Ex. 8 at 9-10.)

{¶ 41} Mr. Willis also testified that the Stipulation meets the second criterion. Mr. Willis noted that the settlement of these cases reduces for consumers Ohio Gas's requested revenue increase of \$3,237,345 to a stipulated increase of \$2,419,587. Mr. Willis also testified that, as a result of the Stipulation, Ohio Gas customers will likely become the first utility customers in Ohio to receive the benefit of an offset to their utility rates to reflect the recent decrease in the federal corporate income tax rate, which results in savings of over \$600,000 per year for customers or around \$1.00 per customer per month. (OCC Ex. 2 at 5-6.) Upon review of the Stipulation, the Commission finds that, as a package, the settlement benefits the customers of Ohio Gas and is in the public interest.

{¶ 42} Finally, Mr. Bowser and Mr. Willis also testified that the Stipulation does not violate any important regulatory principle or practice (Co. Ex. 8 at 10; OCC Ex. 2 at 7). The Commission finds that there is no evidence that the Stipulation violates any important regulatory principle or practice and, therefore, the Stipulation meets the third criterion.

{¶ 43} Accordingly, the Commission finds that the Stipulation entered into by the parties is reasonable and should be adopted (Co. Ex. 8 at 8-10; OCC Ex. 2 at 5-6, 7). The Commission further finds that the rate base, operating revenue, operating expenses, and net operating income as stipulated to by the parties are reasonable and proper, and we adopt these valuations for the purposes of these proceedings.

{¶ 44} As part of its investigation in these matters, Staff reviewed the various rates, charges, and provisions governing the terms and conditions of service contained in Ohio Gas's proposed tariffs. Proposed tariffs in compliance with the Stipulation were submitted by the parties for the Commission's consideration. Upon review, the Commission finds the proposed tariffs to be reasonable. Consequently, Ohio Gas shall file final tariffs, consistent with this Opinion and Order. The new tariffs will become effective on a services rendered basis on or after March 1, 2018.

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 45} On April 28, 2017, Ohio Gas filed a notice of intent to file an application for an increase in rates. Ohio Gas proposed a test year of January 1, 2017, to December 31, 2017, and a date certain of December 31, 2016. By Entry issued on May 24, 2017, the test year and date certain were approved and certain waivers from the Standard Filing Requirements were granted. Ohio Gas's application was filed on May 31, 2017.

{¶ 46} On July 26, 2017, the Commission issued an Entry that accepted the application for filing as of May 31, 2017.

{¶ 47} On November 22, 2017, Staff filed its written report of investigation with the Commission.

{¶ 48} By Entry issued on December 1, 2017, a procedural schedule was established, including deadlines for filing objections to the Staff Report, motions to strike any such objections, direct expert testimony, and motions to intervene. The Entry also scheduled a prehearing conference for January 4, 2018, and an evidentiary hearing for January 18, 2018. In the Entry, OCC was granted intervention in these proceedings.

{¶ 49} On December 22, 2017, objections to the Staff Report were filed by Ohio Gas and OCC.

{¶ 50} A local public hearing was scheduled for January 3, 2018, in Defiance, Ohio. Notice of the local public hearing was published in accordance with R.C. 4903.083, and proof of such publication was filed by Ohio Gas on January 9, 2018.

{¶ 51} By Entry dated January 12, 2018, the attorney examiner determined that the evidentiary hearing should both convene as scheduled on January 18, 2018, and be continued to February 1, 2018.

{¶ 52} The evidentiary hearing commenced on January 18, 2018. No public testimony was offered, and the hearing was continued until February 1, 2018.

{¶ 53} On January 26, 2018, the Stipulation was filed by Ohio Gas, Staff, and OCC.

{¶ 54} The evidentiary hearing resumed on February 1, 2018, as directed by the attorney examiner, and the Stipulation and supporting exhibits, including the testimony of Joseph G. Bowser and Wm. Ross Willis, were admitted into the record.

{¶ 55} The value of Ohio Gas's property used and useful for the rendition of service to customers affected by this application, determined in accordance with R.C. 4909.15, is not less than \$27,209,247.

{¶ 56} The current net annual compensation of \$628,154 represents a rate of return of 2.31 percent on the jurisdictional rate base of \$27,209,247.

{¶ 57} A rate of return of 2.31 percent is insufficient to provide Ohio Gas with reasonable compensation for the services rendered to its customers.

{¶ 58} A rate of return of not more than 9.00 percent is fair and reasonable under the circumstances of these cases and is sufficient to provide Ohio Gas just compensation and return on its property used and useful in the provision of services to its customers.

{¶ 59} An authorized revenue increase of \$2,419,587 will result in a return of \$2,448,832 which, when applied to the rate base of \$27,209,247, yields a rate of return of approximately 9.00 percent.

{¶ 60} The allowable gross annual revenue to which Ohio Gas is entitled for purposes of these proceedings is \$15,823,782.50.

{¶ 61} Ohio Gas's application was filed pursuant to, and this Commission has jurisdiction over the application under, the provisions of R.C. 4909.17, 4909.18, and 4909.19, and the application complies with the requirements of these statutes.

{¶ 62} A Staff investigation was conducted with a report duly filed and mailed, and public hearings were held, the written notice of which complied with the requirements of R.C. 4909.19 and 4903.083.

{¶ 63} The Stipulation is the product of serious bargaining among capable, knowledgeable parties, advances the public interest, and does not violate any important regulatory principle or practice. The unopposed Stipulation submitted by Ohio Gas, Staff, and OCC is reasonable and should be adopted in its entirety.

{¶ 64} Ohio Gas is authorized to file final tariffs, consistent with this Opinion and Order.

## V. ORDER

{¶ 65} It is, therefore,

{¶ 66} ORDERED, That the Stipulation filed on January 26, 2018, be approved in accordance with this Opinion and Order. It is, further,

{¶ 67} ORDERED, That the application of Ohio Gas for authority to increase its rates and charges for natural gas service be granted to the extent provided in this Opinion and Order. It is, further,

{¶ 68} ORDERED, That Ohio Gas be authorized to file tariffs, in final form, consistent with this Opinion and Order. Ohio Gas shall file one copy in these case dockets and one copy in its TRF docket. It is, further,

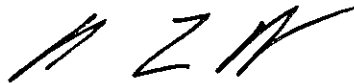
{¶ 69} ORDERED, That the final tariffs shall become effective on a services rendered basis on or after March 1, 2018. It is, further,

{¶ 70} ORDERED, That Ohio Gas notify its customers of the changes to the tariff via bill message or bill insert. The notification should occur with the first bill reflecting the new rates. It is, further,

{¶ 71} ORDERED, That nothing in this Opinion and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 72} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

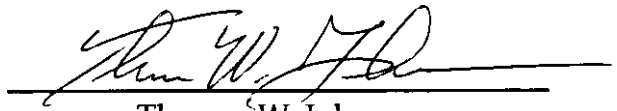
THE PUBLIC UTILITIES COMMISSION OF OHIO



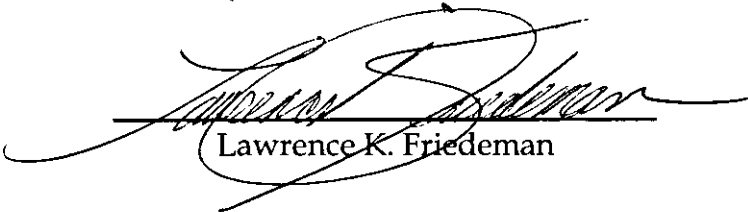
Asim Z. Haque, Chairman



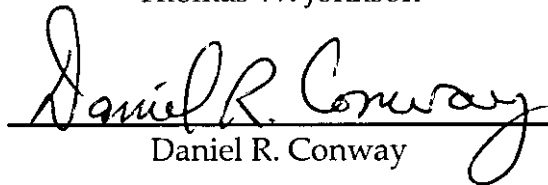
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Thomas W. Johnson




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Barcy F. McNeal  
Secretary