

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Uniform     )  
Purchased Gas Adjustment Clause Rules     )     Case No. 18-1291-GA-ORD  
in Chapter 4901:1-14 of the Ohio     )  
Administrative Code.     )

---

**REPLY COMMENTS OF INTERSTATE GAS SUPPLY, INC.**

---

**I. INTRODUCTION**

On October 10, 2018, the Commission issued amended rules for comment regarding uniform purchased gas adjustment clauses. The Entry states only minor changes are proposed, with the intent of providing clarity and correcting typographical errors. The Ohio Consumers' Counsel (OCC) was the only party to file initial comments. IGS hereby responds to the initial comments of OCC, which propose modifications to the rules that are in direct conflict with the law and state policy. As discussed further below, the Commission should reject OCC's attempts to circumvent the law and retreat from Ohio's progress towards fully competitive natural gas markets.

**II. COMMENTS**

The Commission has recognized that "[t]he General Assembly promulgated a comprehensive regulatory plan to govern the development of a strong and innovative natural gas industry in Ohio."<sup>1</sup> Part of that plan, R.C. 4929.04, authorizes the Commission, upon the application of a natural gas company, to exempt any commodity

---

<sup>1</sup> *In re The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 05-474-GA-ATA, Opinion and Order (Apr. 8, 2005) at 10.

sales service or ancillary service from certain provisions of the Revised Code. The Commission shall approve the request for exemption upon a finding that the applicant is in substantial compliance with the policy of this state specified in R.C. 4929.02, and that either the company is subject to effective competition with respect to the service, or customers of the service have reasonably available alternatives.<sup>2</sup> Under this authority, the Commission “has taken reasonable and carefully measured steps toward the provision of commodity supplies via the fully-competitive market envisioned in Section 4929.02, Revised Code.”<sup>3</sup>

OCC’s proposed language in the purchased gas clause adjustment rules ignores the General Assembly’s comprehensive plan and backtracks on the Commission’s measured steps towards full retail competition. Instead, OCC asks the Commission to force natural gas companies with more than 100,000 customers to procure gas supply service through wholesale standard service offer (SSO) auctions. Only the companies that currently offer a standard choice offer (SCO) may be able to continue with that offer, if the Commission allows. This proposal is unlawful and contrary to state policy.

**A. OCC’s proposed language is unlawful.**

Initially, OCC’s proposal to limit the availability of a purchased gas adjustment clause to only those natural gas companies with less than 100,000 customers is in direct violation of state law. R.C. 4905.302(C)(1) states “[t]he commission shall promulgate a purchased gas adjustment rule, consistent with this section, that establishes a uniform

---

<sup>2</sup> R.C. 4929.04(A).

<sup>3</sup> *In re Columbia Gas of Ohio, Inc.*, Case No. 12-2637-GA-EXM, Opinion and Order (Jan. 9, 2013) at 45.

purchased gas adjustment clause to be included in the schedule of gas companies and natural gas companies subject to the jurisdiction of the public utilities commission.” In other words, the Commission is required to promulgate a rule to establish a purchased gas adjustment clause available to *all* natural gas companies subject to its jurisdiction - not just the ones that fall under an arbitrary customer count established by the OCC.

Further, OCC’s proposal is incompatible with the comprehensive regulatory framework proscribed in the law regarding the supply of natural gas. As noted above, the General Assembly has provided the Commission with a mechanism to evaluate and approve a natural gas company’s transition from the use of a purchased gas adjustment clause to more competitive options.<sup>4</sup> This is a detailed statute containing specific findings the Commission is required to make and due process the Commission is required to provide in its decision making process. OCC’s proposal, however, would make these exemption determinations without any consideration of the statutory requirements. For example, under OCC’s revisions, Duke Energy Ohio, Inc. would be foreclosed from exiting their merchant function without the proper review and due process under the exemption process. The Commission is limited to the authority granted to it by statute and cannot exercise authority beyond that.<sup>5</sup> By making exemption decisions without regard to the requirements in the exemption statute, the Commission would be exceeding its authority. Thus, OCC’s revisions are unlawful and should be rejected.

---

<sup>4</sup> R.C. 4929.04.

<sup>5</sup> *Tongren v. Pub. Util. Comm.*, 85 Ohio St.3d 87, 706 N.E.2d 1255 (1999), citing *Columbus S. Power Co. v. Pub. Util. Comm*, 67 Ohio St.3d 535, 537, 620 N.E.2d 835 (1993).

**B. OCC’s proposed language is contrary to state policy.**

Curiously, it appears that OCC has forgotten its explicit statutory duty to support retail natural gas competition, despite that it is directed to do so in two separate statutes.<sup>6</sup> For example, it is the policy of the state to promote an expeditious transition to effective competition and transactions between willing buyers and sellers to reduce or eliminate the need for regulation of natural gas services.<sup>7</sup> However, OCC’s proposal does not just slow the transition to competition, it throws it in reverse. OCC itself acknowledges this by noting that the Commission moved away from wholesale SSO auctions—which OCC is currently advocating for—with the purpose to facilitate the movement of customers into the retail market.<sup>8</sup> Further, OCC’s proposal actually adds more regulation by creating a new division between natural gas companies and calling on the Commission to adopt additional policies and procedures for a mandatory SSO.<sup>9</sup>

Similarly, it is the policy of the state to “[r]ecognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment.”<sup>10</sup> To date, three of the largest natural gas companies operating in Ohio have been granted exemptions from commodity sales services.<sup>11</sup> Notably, each of

---

<sup>6</sup> R.C. 4911.02(C); R.C. 4929.02(B).

<sup>7</sup> R.C. 4929.02(A)(7).

<sup>8</sup> OCC Comments at 6.

<sup>9</sup> OCC Comments at 6.

<sup>10</sup> R.C. 4929.02(A)(6).

<sup>11</sup> *In re The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 05-474-GA-ATA, Opinion and Order (Apr. 8, 2005); Case No. 07-1224-GA-EXM, Opinion and Order (June 18, 2008); and Case No. 12-1842-GA-EXM, Opinion and Order (Jan. 9, 2013). *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 07-1285-GA-EXM, Opinion and Order (Apr. 30, 2008); and Case No. 12-483-GA-EXM, Opinion and Order (May 16, 2012). *In re Columbia Gas of Ohio, Inc.*, Case No. 08-1344-GA-EXM, Opinion and Order (Dec. 2, 2009) and Second Opinion and Order (Sept. 7, 2011); and Case No. 12-2637-GA-EXM, Opinion and Order (Jan. 9, 2013).

the companies have been granted exemptions applicable to different classes of customers, with different conditions, under different timelines. In line with state policy, the application of the exemption process has provided natural gas companies with flexibility in implementing their transition to full competition. In contrast, OCC proposes rigid language that limits a natural gas company's ability to recognize the evolving gas markets in Ohio. Thus, the Commission should reject OCC's proposals because they contradict the state policy.

### **III. CONCLUSION**

For the foregoing reasons, IGS recommends that the Commission decline to adopt OCC's proposed revisions to Ohio Adm.Code Chapter 4901:1-14 because they are unlawful and contrary to state policy.

Respectfully submitted,

/s/Bethany Allen

Bethany Allen (0093732)

Counsel of Record

[bethany.allen@igs.com](mailto:bethany.allen@igs.com)

Joseph Oliker (0086088)

[joe.oliker@igs.com](mailto:joe.oliker@igs.com)

IGS Energy

6100 Emerald Parkway

Dublin, Ohio 43016

Telephone: (614) 659-5000

Facsimile: (614) 659-5073

***Attorneys for IGS Energy***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing *Reply Comments of Interstate Gas Supply, Inc.* was served this 23rd day of November 2018 via electronic mail upon the following:

/s/ Bethany Allen  
Bethany Allen

William.wright@ohioattorneygeneral.gov  
bryce.mckenney@occ.ohio.gov  
Sarah.Parrot@puco.ohio.gov

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**11/23/2018 2:16:58 PM**

**in**

**Case No(s). 18-1291-GA-ORD**

Summary: Comments Reply Comments of IGS Energy electronically filed by Bethany Allen on behalf of IGS Energy