

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of the Minimum Gas Service)	Case No. 19-1429-GA-ORD
Standards in Chapter 4901:1-13 of)	
the Ohio Administrative Code.)	

**REPLY COMMENTS
OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

January 31, 2020

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I. INTRODUCTION

In their initial comments, numerous commenters along with the Retail Energy Supply Association (“RESA”)¹ raised legal and practical concerns on four of Staff’s proposed revisions to the Minimum Gas Service Standards rules in Ohio Adm. Code Chapter 4901:1-13. The four revisions at issue are mandating a price-to-compare on customer bills, prohibiting non-commodity billing on residential customer bills, requiring a customer account block offering, and requiring the utilities to advise customers about the portability of their supplier contract. Unlike RESA and other commenters, OCC supports the four revisions, suggesting additional language and requirements for some of the revisions. OCC also asks the Commission to adopt rule changes to implement a “shadow billing” program even though the Commission has denied similar requests. RESA disagrees with OCC’s proposals and presents these reply comments in

¹ The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

response. In addition to responding to OCC's initial comments, RESA also responds to two other initial comments by the Ohio Farm Bureau Federation and the Northeast Ohio Public Energy Council.

II. REPLY COMMENTS

A. A price-to-compare statement on bills should not be adopted (Proposed Rule 4901:1-13-11(B)(13)).

Only the Ohio Consumers' Counsel ("OCC") supported Staff's proposal to require the local distribution companies ("LDCs") to include a new, additional statement on all customer bills about a price-to-compare.² OCC, however, did not agree with Staff's proposed language, suggesting it be modified as set forth below:

In order for you to save money ~~by selecting~~ a competitive retail natural gas ~~provider, would have to offer you a rate that is lower than~~ your price to compare, which is the standard choice offer (SCO) or the gas cost recovery (GCR) rate, is (dollar amount per Mcf) for this billing month. The SCO rate or GCR rate is approved by the public utilities commission.

RESA and numerous other commenters explained in their initial comments the many reasons why the price-to-compare proposal is problematic.³ The proposal (even if OCC's changes were incorporated) would mislead customers and would contravene Ohio's energy policy, which the Commission must follow per its legislative mandate. *See* Ohio Revised Code Section 4929.02(B). Also, the Commission has rejected price-to-compare proposals in multiple prior rulemakings.⁴ The Commission should follow that precedent again in this proceeding.

² OCC Initial Comments at 2.

³ RESA Initial Comments at 2-4; The East Ohio Gas Company d/b/a Dominion Energy Ohio and Vectren Energy Delivery of Ohio Inc. ("DEO/VEDO") Initial Comments at 3-6; Duke Energy of Ohio, Inc. ("Duke") Initial Comments at 1-2; Ohio Gas Company Initial Comments at 2-3; Suburban Natural Gas Company Initial Comments; Northeast Ohio Public Energy Council ("NOPEC") Initial Comments at 3-4; Direct Energy Services LLC and Direct Energy Business LLC ("Direct Energy") Initial Comments at 9-13; Interstate Gas Supply, Inc. ("IGS") Initial Comments at 12-14.

⁴*In the Matter of the Commission's Review of Chapter 4901:1-13 of the Ohio Administrative Code, Regarding Minimum Gas Service Standards*, Case No. 13-1225-GA-ORD, Finding and Order at ¶ 88 (July 20, 2014); and *In*

OCC's support for the price-to-compare language is based on its mistaken understanding that the *sole* way customers can assess the "best deal" is by comparing a supplier rate against the LDC's SCO or GCR rate listed on a particular bill.⁵ That is not correct as RESA and others have already pointed out in initial comments. Those comments raised other concerns including the fact that Staff's (and now OCC's) proposed language presumes a customer is eligible for one of the rates (which may not be the case if shopping or on the percentage of income payment plan program).

OCC also contends that the Commission's emphasis "should be on helping consumers save money and to avoid losing money on natural gas."⁶ Ohio law defines the Commission's role differently, however. The Commission's role is to promote the availability of natural gas services, the diversity of supplies; to encourage innovation in natural gas services; to recognize the continuing emergency of the competitive natural gas markets; and to promote effective competition among other things. *See* Ohio Revised Code Section 4929.02. OCC's proposal would re-write the Commission's statutory role and Ohio's energy policy.⁷

The Commission's Energy Choice website contains information regarding numerous competitive offers and the LDCs' SCO or GCR rates. There, consumers can review and appropriately compare options. The Commission should continue to use its Energy Choice website rather than adopting a rule that would result in an inaccurate product comparison and that suggests one commodity service (SCO or GCR) is the sole way a consumer can "save money" in an unregulated competitive market. The price-to-compare statement as proposed by

the Matter of the Commission's Review of Chapter 4901:1-13 of the Ohio Administrative Code, Case No. 09-326-GA-ORD, Finding and Order at ¶ 55(b) (July 29, 2010).

⁵ OCC Initial Comments at 2.

⁶ *Id.* at 3.

⁷ The Commission's mission statement likewise identifies its role differently from what OCC alleges: "Our mission is to assure all residential and business consumer access to adequate, safe and reliable utility services at fair prices, while facilitating an environment that provides competitive choices." PUCO website, accessed January 28, 2020 <https://www.puco.ohio.gov/how-the-puco-works-for-you/mission-and-commitments/>.

Staff and OCC is problematic, contrary to law and unnecessary. For all of these reasons, the proposed rule (with or without OCC's edits) should not be adopted.

B. The Commission should continue to allow non-commodity charges on utility bills (Proposed Rules 4901:1-13-11(B)(21) and (K)).

Numerous commenters oppose the Staff's recommendation to stop including certain charges that are on the LDCs' residential customer bills today.⁸ Specifically, Staff wants the natural gas residential bills to contain only "a natural gas or competitive retail natural gas commodity charge or an approved tariffed distribution charge or service," not other charges.⁹ OCC is the only party that expressed support for this Staff proposal. OCC claims the proposal is important "to help prevent natural gas bills from being misused (e.g. as the venue for collecting marketer monthly service fees, miscellaneous charges, or other charges for products and services that have nothing to do with the natural gas service being provided by the gas utility)."¹⁰ Neither OCC nor Staff has presented any evidence that non-commodity charges on bills have been misused.

Instead, the record in this proceeding shows that many bills to Ohioans include non-commodity charges, that the billing of non-commodity charges is a convenience for customers, and that the LDCs have not identified or experienced any issues. For example:

- "Over 167,000 customers in Ohio ... pay for the plans administered by HomeServe on their gas utility bills."¹¹
- "Pivotal has billed customers for its services utilizing on-billing through Vectren and Columbia Gas of Ohio since 2008 and 2013, respectively.... Currently, Pivotal has over 121,000 enrolled plans in Ohio."¹²

⁸ RESA Initial Comments at 4-6; DEO/VEDO Initial Comments at 7; Duke Initial Comments at 2; Direct Energy Initial Comments at 13-14; IGS Initial Comments at 1-9; Homeserve USA Corp. ("HomeServe") Initial Comments; and Pivotal Home Solutions ("Pivotal") Initial Comments.

⁹ Staff Proposal at 36.

¹⁰ OCC Initial Comments at 11.

¹¹ HomeServe Initial Comments at 3.

¹² Pivotal Initial Comments at 2.

- “Customers find it convenient to reduce the number of checks they must write to pay for desired services”;¹³ “[t]hese customers find value in the ease of paying just one bill for multiple services and convenience in related administrative tasks...”;¹⁴ and “Duke Energy Ohio understands that most of its customers prefer to receive fewer bills, not more.”¹⁵
- Dominion and VEDO are not aware of any issues with the billing of non-commodity charges.¹⁶
- There are currently multiple consumer protections with regard to the billing of non-commodity charges.¹⁷

In addition, Duke explained that, as a utility providing both electric and natural gas services to customers in Ohio, the Staff’s proposal is not feasible and Duke would have to seek a waiver if the proposal were adopted.¹⁸ These comments demonstrate the benefits of the status quo and justify rejection of the Staff’s proposal.

C. Account blocks are unnecessary, will cause confusion and will be costly (Proposed Rule 4901:1-13-12(G)).

Staff proposes that all LDCs modify their systems so that customers can establish a block that precludes a supplier switch unless the customer provides a new special code.¹⁹ Staff’s proposal is as follows:

(G) Each gas or natural gas company will allow any customer to request a retail natural gas supplier block be placed on the customer’s account. The block will prevent the customer’s commodity service provider from being switched without the customer’s authorization (via customer provided code or pin number) to the gas or natural gas company. The release will be provided to the gas or natural gas company from the customer or other authorized person on the account.

Many oppose this proposal.²⁰ The large Ohio LDCs noted that they will have to implement IT changes if this proposal is adopted, and some even noted the changes and/or their costs would be

¹³ Dominion/VEDO Initial Comments at 7.

¹⁴ IGS Initial Comments at 5.

¹⁵ Duke Initial Comments at 2.

¹⁶ Dominion/VEDO Initial Comments at 7.

¹⁷ IGS Initial Comments at 3-4.

¹⁸ Duke Initial Comments at 2.

¹⁹ Staff Proposal at 39.

significant.²¹ Several commenters, including RESA, identified the difficulty for all with mandating a special code that customers must provide prior to a switch in service.²²

OCC, however, supports Staff's proposal likening it to the "preferred carrier freeze" available from telecommunications customers.²³ OCC overlooks that the preferred carrier freeze is not a mandatory obligation of telecommunications providers. It is an offering that the telecommunications providers may make available to customers. *See* Ohio Admin. Code 4901:16-18(F) ("all telecommunications providers that offer [preferred carrier freezes] shall ..."); and 47 C.F.R. § 64.1190(b) ("All local exchange carriers who offer preferred carrier freezes shall...."). Staff's proposal here is significantly different because it would mandate that a freeze, or account block, must be made available by the LDCs.

More importantly, the account block is unnecessary and will negatively impact the competitive market. As Direct Energy correctly points out, a block exists today because customers already have to either give their account number or give consent to access their account number before a natural gas supplier switch can be processed.²⁴ Staff's proposal would effectively be a second account block on top of the one already in place. It would act as a market barrier by making the enrollment process more complex and would generate customer confusion as RESA noted in its initial comments. And while Columbia suggests putting in place customer-verification questions as an alternative, that alternative still assumes that customers will remember the answers to the questions (and also adds another unnecessary level of verification).

²⁰ RESA Initial Comments at 9-11; DEO/VEDO Initial Comments at 7; Duke Initial Comments at 3; Direct Energy Initial Comments at 5-8; and IGS Initial Comments at 15-16;

²¹ DEO/VEDO Initial Comments at 7; Duke Initial Comments at 3; and Columbia Initial Comments at 3.

²² RESA Initial Comments at 10; DEO/VEDO Initial Comments at 7; IGS Initial Comments at 15-16; and Columbia Initial Comments at 3.

²³ OCC Initial Comments at 7.

²⁴ Direct Energy Initial Comments at 7.

The Commission has in place mechanisms to protect customers and as a result, should not adopt Staff's account block proposal.

D. Contract portability should not place the LDC in an advisory role or be expanded to include added customer meters or locations. Proposed Rule 4901:1-13-12(H) should be adopted only with the modifications presented by RESA.

Staff proposes in Rule 4901:1-13-12(H) that LDCs must advise shopping customers when the customer submits a move request. Staff's proposal rule language specifies what advice the LDC must provide, namely inform the customer that the customer's current supplier will transfer the service under the same terms and conditions and provide the customer with information about the choice program and the Energy Choice website.²⁵ OCC supports Staff's proposal but advocates for further revisions that not only are inconsistent with the concept of contract portability but seek to undermine the supplier-customer relationship.

For example, OCC argues that the rule should require suppliers to obtain from the moving customer new consent and the new account number.²⁶ OCC also argues that the LDC should inform the moving customer of a right to determine whether to retain the supplier at the new premise.²⁷ In other words, OCC would put the LDC in a position where it could interfere with the contractual rights of a supplier and its customer by requiring the LDC to:²⁸

- Identify the supplier's contract rate and
- Present other choices "that will protect" against overpaying.

As RESA and others have argued, the Staff's proposal inappropriately seeks to have the LDC provide advice. OCC's revisions to that language go even further, placing the LDC in a more inappropriate advisory position. Neither Staff's nor OCC's proposal should be accepted.

²⁵ Staff Proposal at 39.

²⁶ OCC Initial Comments at 8-9.

²⁷ OCC Initial Comments at 9.

²⁸ OCC Initial Comments at 9.

RESA also notes that the Ohio Farm Bureau Federation proposes to apply the contract portability concept in the Staff's proposal to additional meters or service locations of the same shopping customer.²⁹ RESA is concerned with this proposal because the terms and conditions of adding new meters or new service locations are governed by the customer's contract with its supplier. Moreover, additional meters and service locations under a contract can affect pricing that was initially based on a customer's then-projected use. Rather than impact existing contracts (and the economics of those contracts), a viable solution for the Ohio Farm Bureau would be for the Commission to allow a new contract for the added meter or service location (if one is executed) to instantly connect rather than require a minimum waiting period at the utility's default commodity service. RESA supports the idea of instant connects,³⁰ but cannot agree to a rule that would mandate additional service be folded into existing contract terms.

E. OCC's request for a rule implementing shadow billing should be rejected.

The Commission has repeatedly rejected OCC's attempts to implement shadow billing, most recently in Duke Energy Ohio's bill format case. *See In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Bill Format Changes*, Case No. 19-1593-GE-UNC, Finding and Order (December 18, 2019) at ¶35.³¹ OCC, however, continues to push for shadow billing arguing in its initial comments that the Commission should adopt a rule requiring utilities to create secondary bills for shopping customers using SCO pricing and file a summary report with the Commission on the difference between the customer's actual bills and secondary SCO

²⁹ Ohio Farm Bureau Initial Comments.

³⁰ *See e.g. In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI, RESA's Initial Comments at 9-10 (February 6, 2014) and RESA's Reply Comments at 11-13 (February 20, 2014).

³¹ *See also, In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained within the Rate Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case Nos. 18-218-GA-GCR et al., Opinion and Order at ¶ 57 (December 18, 2019); and *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained within the Rate Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case Nos. 15-218-GA-GCR et al., Opinion and Order at ¶ 69.

bills.³² OCC also asks the Commission to require bill messaging showing the shopping customers what their charges would be if they were on the SCO instead of shopping.³³

The Commission should reject OCC's requests for four reasons. First, a shadow billing comparison is not necessary because the current rules already require a bill message that directs customers to the Commission's Energy Choice website to allow for apples-to-apples comparisons on market prices. That same website also provides current SCO or GCR pricing which customers can take into consideration when electing whether to shop. Customers have information available to them when making decisions and shadow billing is not necessary.

Second, shadow billing is not an apples-to-apples comparison. A customer must consider all terms and conditions of an offer when making comparisons such as how long the term is for the contract, the amount of any early termination fees and the type of rate offered (fixed or variable). Telling a customer he or she will save money through a snapshot comparison of a monthly price ignores why the customer elected to shop (for example, price certainty) and the variables that go into a customer's decision (term, rate options, and whether gas prices will increase or decrease).

Third, putting a shadow billing comparison on customer bills could easily lead to customer confusion. For example, a customer with a long-term, fixed-rate contract would be seeing a comparison to a monthly variable rate (SCO or GCR) that could fluctuate well above or below a fixed price. One month the customer may see that the SCO (or GCR) shadow billing charges are less than the fixed contract charges, and the next month see the exact opposite. That can easily lead to customer confusion and why the Commission's Energy Choice website should remain the vehicle for commodity service options rather than shadow billing.

³² OCCs Initial Comments at 3-4.

³³ OCC Initial Comments at 4.

Fourth and last, OCC's shadow billing proposal will impose an unnecessary and unwanted administrative burden on utilities. For example, when rejecting OCC's request for a shadow billing comparison in the Duke Energy Ohio bill format case and responding to Duke's concerns about administrative burden, the Commission noted that OCC itself "recognizes that billing system changes are required" to put shadow billing information on bills. *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Bill Format Changes*, Opinion and Order at ¶ 35 (December 18, 2019). There is no reason to implement a shadow billing program that will be inaccurate, misleading and increase the administrative burden on utilities (and increase costs to customers). As it has repeatedly done in the past, the Commission should reject OCC's shadow billing proposal.

F. OCC's proposal to expand the information in the customer handbook summary is overly broad.

Staff has proposed an amendment to Rule 4901:1-13-06(C)(8) to include in each LDC's written summary of customer rights and obligations, information on contract portability and the ability to block a competitive switch. RESA does not oppose that amendment subject to RESA's objection to Staff's change to Rule 4901:1-13-12(G) to implement the account block via code or pin number. OCC, however, wants to expand the information to be included in the required written summary.³⁴ Specifically, OCC would modify Staff's proposed amendment language to read:³⁵

(8) Gas choice programs available to consumers, including, **but not limited to,** information on slamming, contract portability, the ability to block ~~a competitive switch~~ **an unwanted service provider switch, selecting the lowest cost supply for natural gas, known scams (including spoofing), and potentially adverse contract provisions such as automatic renewals and teaser rates.**

³⁴ OCC mischaracterizes Staff's change as adding information on slamming. Slamming is already included in the existing rule language.

³⁵ OCC Initial Comments at 6.

While RESA supports consumer education on slamming and other practices that violate Commission rules, it does not support OCC's changes to this rule because they would force utilities to advise customers on how to select the "lowest cost supply for natural gas" and what contract terms should be reviewed. Other resources exist for information on pricing, including the Commission's Energy Choice website. As well, Rule 4901:1-13-06(C)(4) requires LDCs to include in the written summary, information on the availability of rate information and alternatives upon request. OCC's language is overly broad and absent editing and refinement, should not be adopted.

G. Governmental Aggregation Information and Links

RESA's last comment relates to the Northeast Ohio Public Energy Council's (NOPEC) request to be included on the Commission's Energy Choice webpage that displays apples-to-apples comparisons. NOPEC seeks to revise Staff's proposed Rule 4901:1-12-11(B)(28) as follows:³⁶

A prominently displayed notice of the commission's energy choice website to view the gas or natural gas company's standard choice offer (SCO) rate or gas cost recovery (GCR) rate and other CRNGS rate offers, **including a listing of governmental aggregators' websites**, if the company has a choice program.

With this bill notice, the Energy Choice website would then have to include a listing of governmental aggregator websites.

RESA's concern with this change is that customers linking to aggregation websites (for those that have websites) could easily be confused when comparing offers. For example, a customer not eligible for an aggregation may click on an aggregation website, see a price and not realize that price is not available. Moreover, a customer reading this bill message may not be eligible or reside in an aggregation area. Thus, it is a better practice to disseminate aggregation-

³⁶ NOPEC Initial Comments at 5.

related information directly to the eligible customers within the aggregation's territory. Also worth noting is that the current Energy Choice website already devotes an entire webpage to explaining aggregations and includes interactive maps showing the location of both electric and gas aggregations.³⁷

Rather than create the potential for confusion, RESA believes that the current Energy Choice information on aggregations is sufficient and the proposed bill message change should not be adopted.

III. CONCLUSION

RESA appreciates the opportunity to submit these reply comments, and asks that the Commission adopt RESA's proposed changes submitted in RESA's initial comments.

Respectfully submitted,

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³⁷ See Energy Choice website, accessed January 29, 2020, <http://www.energychoice.ohio.gov/Pages/What%20is%20Aggregation.aspx>.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 31st day of January, 2020 upon the persons listed below.

/s/ Gretchen L. Petrucci
Gretchen L. Petrucci

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