**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Commission's Review of the Standard Filing Requirements for Rate Increases in Ohio Adm.Code 4901-7. | ) ) ) | Case No. 19-2103-AU-ORD |

# REPLY COMMENTS OF THE OHIO GAS ASSOCIATION

The Ohio Gas Association ("OGA") is a natural gas trade organization which represents over 30 natural gas distribution companies and cooperatives in Ohio.[1] The rules under review in this docket directly impact OGA member companies.[2] Pursuant to the December 16, 2020 Entry in this docket, the OGA respectfully submits these Reply Comments for consideration by the Public Utilities Commission of Ohio ("Commission").

OGA reviewed the various suggested adjustments to Staff's proposed amendments to Ohio Adm.Code 4901-7 and Appendix A of that Chapter ("the Rules"). OGA presents these Reply Comments to address arguments raised by the Office of the Ohio Consumers' Counsel ("OCC") and the Retail Energy Supply Association ("RESA").

From a high level, OCC proposes[3] to grant itself special status as an intervenor in utility rate cases and requests that it be provided rights reserved for the Commission only. In support of this argument, OCC cites to a statute that requires the Commission, and not

[1] See https://www.ohiogasassoc.org/about-oga/mission-statement/;
[2] OGA member companies are "operators" under Ohio Admin. Code 4901:1-16-01(P).
[3] *In The Matter Of The Commission's Review of the Standard Filing Requirement for Rate Increases in Ohio Adm. Code 4901-7-01*, Case No. 19-2103-AU-ORD, "Comments on Improving the PUCO's Standard Filing Requirements for Utility Filings that Affect Consumers' Utility Services by The Office of The Ohio Consumers' Counsel" (January 15, 2021).

a utility, to provide it with information.[4] OCC's argument fails to acknowledge the regulatory framework that clearly defines the roles played by the Commission, OCC, distribution utilities, and other intervenors. This framework governing how utilities present information to the Commission and other intervenors, which includes the discovery rules, has worked effectively for many years.

OCC fails to show how it is harmed by the status quo it attempts to modify. Aside from vague references to efficiency and expediency, OCC does not provide concrete evidence that it is harmed by requesting information in a rate case through data requests. It also implies, again without concrete examples, that utilities do not provide information shared with Staff upon request. This is inaccurate. Distribution utilities that file rate case applications are obligated to reasonably comply with the Commission's discovery rules, and these utilities regularly provide information requested by intervenors in compliance with these requirements. Further, there are mechanisms in place if OCC believes a given utility is failing to meet its duties under the discovery rules.

Moreover, many of OCC's changes would require utilities to provide such information to *all* parties, regardless of whether those parties have sought the information or have any intention of reviewing it. This would add to the already considerable administrative burden borne by applicants, again with no showing of need. The rules already strike the proper balance by permitting interested parties to request whatever data they are interested in reviewing. OCC has not justified any change to the existing rules.

In its comments, OCC also advocates that the Commission adopt a change to Chapter II (B)(8) to require the disclosure of "spending on regulatory relations and

[4] R.C. 4911.09

legislative lobbying" by the distribution utility and its affiliates.[5] These proposed changes are not necessary and, if adopted, would raise serious jurisdictional concerns. As to the regulated utility, the revisions are not justified. The fundamental purpose of a rate case is to set the price of service. It is unclear what OCC specifically refers to when referencing "regulatory relations." To the extent any regulatory-related activities in question are relevant to the cost of service, the associated costs would be subject to review and discovery during the rate case. But if the activities and costs are not relevant to the cost of service, there is no basis for requiring this information as part of every default case. The Commission has ample tools at its disposal if a given situation demands more review, including to order an investigation focused on the company and issues involved.

These concerns are only amplified to the extent that this recommendation suggests that the Commission collect information from a distribution utility's affiliate that the Commission has no jurisdiction over. The Commission, as a creature of statute, is limited to the authority delegated to it by the Ohio General Assembly.[6] Nothing in the Ohio Revised Code grants the Commission with jurisdictional authority over non-regulated affiliates of natural gas distribution utility companies. This suggestion should also be rejected.

RESA focuses its arguments on electric distribution companies. However, its second footnote states that the arguments can apply to "any competitive service offered by … a natural gas distribution company."[7] It is unclear how RESA's comments would apply

[5] *OCC, Supra* at 10.
[6] *Disc. Cellular, Inc. v. Pub. Util. Comm.*, 112 Ohio St.3d 360, 373, 2007-Ohio-53, 859 N.E.2d 957, P 51.
[7] *In The Matter Of The Commission's Review of the Standard Filing Requirement for Rate Increases in Ohio Adm. Code 4901-7-01*, Case No. 19-2103-AU-ORD, Comments of Retail Energy Supply Association (January 15, 2021) at 2.

to natural gas companies, and RESA supplies no explanation to that end. Regardless, RESA's comments are not well taken.

RESA advocates that the Commission require an adjustment of plant accounts, revenues, expenses, and the cost of service study to remove financial information associated with non-competitive services provided by a distribution utility, specifically the provision of default service.[8] The Standard Filing Requirements set forth a uniform means by which an application for an increase in rates is to be presented to the Commission for review. These filing requirements are not an appropriate forum for legal judgments or determinations related to the merits of an application. Rather, they are intended to provide a consistent method of presenting rate case applications to assist the Staff and intervenors with their review of the applications. RESA's suggested changes to the Rules are misplaced because these issues should be raised in the rate cases themselves. Indeed, this is confirmed by RESA's comments, which read like a brief on policy issues. Yet, RESA fails to actually propose specific revisions to the Rules within its comments.

Additional evidence that RESA's suggestions are inappropriate is the fact that it has raised these same arguments in prior Commission cases. RESA attempts to use this rule review as the latest attempt to force public policy changes that have been considered and rejected by the Commission in multiple dockets.[9] These dockets were the more appropriate venue for a discussion of this topic. The Commission should follow its precedent and reject RESA's suggested changes to the Rules.

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[8] *Id.*

[9] See *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates*, Case Nos. 17-32-EL-AIR, et al., Second Entry on Rehearing (July 17, 2019) at 32; *In the Matter of the Application of The Dayton Power and Light Company for an Increase in its Electric Distribution Rates*, Case Nos. 15-1830-EL-AIR, et al., Opinion and Order (Sept. 26, 2018) at 28; and *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, Opinion and Order (April 25, 2018) at 215.

For these reasons, the Commission should reject the proposed adjustments discussed above to staff's proposed amendments to Appendix A. OGA's failure to address any other comments should not be construed as support for such recommendation.

Respectfully submitted,

*/s/ Devin D. Parram*
Devin D. Parram
Counsel of Record
Devin D. Parram (0082507)
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215
Telephone: (614) 227-8813
E-mail: dparram@bricker.com

Attorney for
**OHIO GAS ASSOCIATION**

**CERTIFICATE OF SERVICE**

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*/s/ Devin D. Parram*
Devin D. Parram
**Attorney for OHIO GAS ASSOCIATION**

John Jones
john.jones@ohioattorneygeneral.gov

John Ryan
Joseph Clark
Johnryan@nisource.com
Josephclark@nisource.com

Ambrosia E. Wilson
Ambrosia.Wilson@occ.ohio.gov

Rocco O. D'Ascenzo
Larisa M. Vaysman
Jeanne W. Kingery
Rocco.DAscenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
Larisa.Vaysman@duke-energy.com

Frank P. Darr
Fdarr2019@gmail.com

Steven T. Nourse
Christen M. Blend
Tanner S. Wolffram
stnourse@aep.com
cmblend@aep.com
tswolffram@aep.com

Christopher T. Kennedy
Lucas A. Fykes
kennedy@whitt-sturtevant.com
fykes@whitt-sturtevant.com

Andrew J. Campbell
andrew.j.campbell@dominionenergy.com

Summary: Reply Comments of The Ohio Gas Association electronically filed by Teresa Orahood on behalf of Devin D. Parram