

FILE

6

RECEIVED-DOCKETING DIV

BEFORE

2002 FEB 22 PM 12: 14

THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

IN THE MATTER OF THE APPLICATION)
 OF THE CINCINNATI GAS & ELECTRIC) CASE NO. 01-1228-GA-AIR
 COMPANY FOR AN INCREASE IN ITS)
 GAS RATES IN ITS SERVICE TERRITORY)

IN THE MATTER OF THE APPLICATION)
 OF THE CINCINNATI GAS & ELECTRIC)
 COMPANY FOR APPROVAL OF AN) CASE NO. 01-1478-GA-ALT
 ALTERNATIVE RATE PLAN FOR ITS)
 GAS DISTRIBUTION SERVICE)

IN THE MATTER OF THE APPLICATION)
 OF THE CINCINNATI GAS & ELECTRIC) CASE NO. 01-1539-GA-AAM
 COMPANY FOR APPROVAL TO CHANGE)
 ACCOUNTING METHODS)

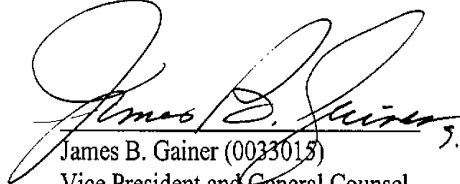
**MOTION OF
 THE CINCINNATI GAS & ELECTRIC COMPANY
 TO STRIKE CERTAIN OBJECTION FILED BY
 THE INDUSTRIAL ENERGY USERS-OHIO
 TO STAFF REPORT OF INVESTIGATION AND TO STRIKE
 CERTAIN TESTIMONY OF KENNETH N. ROSSELET, JR.**

Pursuant to Ohio Admin. Code 4901-1-28(B) and the Attorney Examiner's Entry of January 31, 2002, The Cincinnati Gas & Electric Company (CG&E) moves the Commission for an order striking objection number A-2 contained in the Objections of The Industrial Energy Users-Ohio to the Staff Report of Investigation. CG&E also moves for an order striking the testimony of witness Kenneth N. Rosselet, Jr. at page 5, lines 3-4 and page 10, line 18 through page 11, line 22. This motion is based on the accompanying memorandum in support.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
 Technician 3 Date Processed 2.22.02

Respectfully submitted,

THE CINCINNATI GAS & ELECTRIC
COMPANY

A handwritten signature in black ink, appearing to read "James B. Gainer". The signature is fluid and cursive, with a large initial "J" and "G".

James B. Gainer (0033015)

Vice President and General Counsel,
Regulated Businesses

John J. Finnigan, Jr. (0018689)

Senior Counsel

139 East Fourth Street

Room 25 ATII

Cincinnati, OH 45202

(513) 287-3601

MEMORANDUM IN SUPPORT

Ohio Administrative Code 4901-1-28(B) states:

(B) Any party may file objections to a report of investigation within thirty days after such report is filed with the commission. Such objections may relate to the findings, conclusions, or recommendations contained in the report, or to the failure of the report to address one or more specific items. All objections must be specific, and objections which fail to meet this requirement may be stricken, upon motion of any party or the commission staff or upon motion of the commission, the legal director, the deputy legal director, or the attorney examiner.

The Industrial Energy Users-Ohio (IEU) raised certain objections to CG&E's Percentage of Income Payment Program in its objection number A-2. Specifically, IEU objects that Staff failed to recommend a deduction to rate base for the test year for the PIPP account credit balance as non-investor supplied funds. The testimony of IEU witness Kenneth N. Rosselet, Jr. at page 5, lines 3-4 and page 10, line 18 through page 11, line 22 supports this objection related to CG&E's PIPP program.

CG&E's PIPP program was approved by a Commission Order dated December 2, 1993 approving a Stipulation and Recommendation in *In the Matter of the Review of the Interim Emergency and Temporary Pip Plan Riders Contained in the Approved Rate Schedules of Electric and Gas Companies*, Case No. 88-1115-GE-PIP; *In the Matter of the Commission Review of the PIPP Program and Its Operations*, Case No. 90-705-GE-PIP; and *In the Matter of the Commission Investigation Into the Rules, Regulations, and Practices Governing the Disconnection of Natural Gas, Gas, or Electric Service to Residential Customers*, Case No. 90-879-GE-ORD (hereinafter "the 1993 PIPP Order").

The amount of CG&E's PIPP Rider is contained in its gas tariff P.U.C.O. Gas No. 18, Sheet No. 63.4. The current amount of the PIPP Rider was determined by an Entry

dated April 27, 2000 in *In the Matter of the Application of The Cincinnati Gas & Electric Company for Adjustment of its Gas Interim Emergency and Temporary Percentage of Income Payment Plan Rider*, Case No. 00-521-GA-PIP. In that Entry, the Commission stated:

(5) The procedure used to implement revised PIPP Rider rates is that procedure established by the Commission in our Opinion and Order in (the 1993 PIPP Order).

Under the terms of the Stipulation and Recommendation approved in the 1993 PIPP Order, CG&E is required to:

initiate, not more than once annually, Commission proceedings to adjust (its) PIPP rider to 'true-up' the applicable surcharge rate so that, as nearly as possible, the PIPP rider rate recovers, over the course of a year, an amount equal to the PIPP arrearages (including both Pre-PIPP and Post-PIPP designated amounts) accumulated over that year plus the appropriate carrying charges and amortization amounts previously included from prior years, plus or minus any deficiency or excess recovery, recovered by the rider during the prior year.

Id. at p. 11.

CG&E over-collected its costs through the PIPP Rider prior to the April 27, 2000 Entry in Case No. 00-521-GA-PIP. This Entry implemented a negative surcharge of minus 0.35 cents per 100 cubic feet of gas, such that CG&E is now under-collecting its costs through the PIPP Rider. Consistent with common rate-making practice for cost recovery mechanisms that contain a true-up provision, the PIPP surcharge adjustment approved in the Entry did not factor in the time value of money either for periods of over-collection or periods of under-collection of PIPP costs.

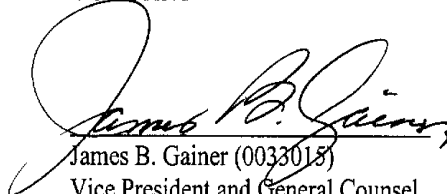
The IEU's objection relating to CG&E's PIPP Rider obviously does not relate to CG&E's rate application. Instead, it relates to CG&E's PIPP Rider, which CG&E

properly resolved in by the Commission in Case No. 00-521-GA-PIP. Likewise, the above-cited portions of Mr. Rosselet's testimony is irrelevant because he testifies in support of IEU's objection related to CG&E's PIPP Rider. The issues raised by these objections should have been raised in Case No. 00-521-GA-PIP. If the issues were raised in this case, this would violate the procedure for adjusting the PIPP Rider approved in the 1993 PIPP Order. If IEU has any issues with CG&E's PIPP Rider, IEU's proper remedy is either to raise such issues in CG&E's next application to adjust the PIPP Rider or, in the alternative, to file a complaint case against CG&E pursuant to the terms of R. C. 4905.26.

Based on the foregoing, IEU's objection numbers A-2 and the above-cited portion of Mr. Rosselet's testimony should therefore be stricken pursuant to Ohio Admin. Code 4901-1-28(B).

Respectfully submitted,

THE CINCINNATI GAS & ELECTRIC
COMPANY



James B. Gainer (0033015)
Vice President and General Counsel,
Regulated Businesses
John J. Finnigan, Jr. (0018689)
Senior Counsel
139 East Fourth Street
Room 25 ATII
Cincinnati, OH 45202
(513) 287-3601

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing Objections to the Staff Report of Investigation submitted by The Cincinnati Gas & Electric Company was served on the following, via overnight delivery, postage prepaid on February 22, 2002.


John J. Finnigan, Jr.

Colleen L. Mooney, Esq.
Attorney for Ohio Consumers' Counsel
10 West Broad Street
Suite 1800
Columbus, Ohio 43215-3485

Gretchen J. Hummel, Esq.
Attorney for Industrial Energy Users-Ohio
McNees, Wallace & Nurick
Fifth Third Center
21 East State St., Suite 1700
Columbus, OH 43215-4228

David C. Rinebolt, Esq.
Attorney for Ohio Partners
for Affordable Energy
P.O. Box 1879
Findlay, OH 45839-1793

Charles Harak, Esq.
Attorney for Utility Workers Union of America
Local No. 175
77 Summer Street
10th Floor
Boston, MA 02110

Kimberly W. Bojko
McNees Wallace & Nurick LLC
Fifth Third Center
21 East State Street, 17th Floor
Columbus, Ohio 43215-4228

M. Howard Petricoff, Esq.
Attorney for The New Power Company
Vorys, Sater, Seymour & Pease
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

Noel M. Morgan, Esq.
Attorney for Communities United for Action
Legal Aid Society of Cincinnati
215 East Ninth Street
Cincinnati, Ohio 45202

Duane C. Luckey, Esq.
Section Chief
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, Ohio 43266-0573

Henry W. Eckhart, Esq.
People Working Cooperatively, Inc
50 West Broad Street
Columbus, Ohio 43215

doc. no. 89098