

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

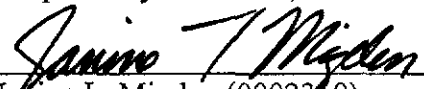
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In the Matter of the Application of Columbia Gas of Ohio, Inc. for an Adjustment in its Gas Cost Recovery Rate.) PUCO
) Case No. 03-643-GA-UNC
)
 In the Matter of the Application of The East Ohio Gas Company dba Dominion East Ohio to Revise its Gas Cost Recovery Rate.)
) Case No. 03-654-GA-UNC
)
 In the Matter of the Application of The Cincinnati Gas & Electric Company to Revise its Gas Cost Recovery Rate Effective April 1, 2003.)
) Case No. 03-644-GA-UNC
)

MOTION FOR COMMISSION-ORDERED INVESTIGATION INTO THE GAS COST RECOVERY RULES

Pursuant to Sec. 4905.26 Ohio Revised Code, Shell Energy Services Company, LLC and Energy America, LLC respectfully requests that the Public Utilities Commission of Ohio immediately initiate an investigation into the GCR process to determine if systematic changes are warranted for the reasons set for in the Memorandum in Support.

Respectfully submitted,


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MEMORANDUM IN SUPPORT

On March 7, 2003, Columbia Gas of Ohio ("Columbia" or "COH"), Dominion East Ohio Gas Company ("DEO") and Cincinnati Gas and Electric Company ("CG&E"), (collectively referred to as "the Local Distribution Companies" or "LDCs"), all filed separate Applications before the Public Utilities Commission ("PUCO" or "Commission") requesting authority to adjust their Gas Cost Recovery ("GCR") for the month of April. Columbia's proposal seeks to increase the current GCR from \$7.5774 per Mcf to \$9.9558 per Mcf, an increase of \$2.3784 per Mcf. Columbia Application, at 1-2. DEO is requesting an increase in its GCR from \$6.006 per Mcf to \$7.359 per Mcf, a difference of \$1.353 per Mcf. DEO Application, at 1-2. As for CG&E, it is requesting an increase of \$1.752 per Mcf to \$7.440. CG&E Application, at 1-3 (unnumbered).

The LDCs cite the dramatic increase in the commodity cost of gas as the reason for requesting an adjustment to the April, 2003 GCR. Further, the concern is articulated regarding under-recoveries going into next winter's heating season. Id. Shell Energy Services Company, LLC and Energy America, LLC (collectively referred to as "the Suppliers") do not oppose these Applications. In fact the Suppliers support the notion embedded in these filings that the GCR reflect current market conditions and provide cost recovery for the current period. However, the utilities' frequent requests to adjust the GCR, is evidence that the GCR as currently devised does not accomplish these objectives. The GCR is not working and the repeated requests to adjust the GCR away from a standard and predictable process confound and confuse the marketplace.

Sec. 4905.26 Ohio Rev. Code, vests the Commission with broad authority to investigate any rate, schedule, or service that may be unjust, unreasonable, unjustly preferential, or to investigate any regulation, measurement or practice affecting or related to any service furnished by a public utility which may be unreasonable, unjust, insufficient, unjustly preferential or inadequate. Based upon the recent history, it is increasingly clear that the current GCR is inadequate to meet the challenges of our times. Moreover, the unpredictability of the GCR due to midstream changes has an unjust and unreasonable impact on suppliers who are competing against the GCR and on customers understanding of how the market operates. Further injury may result in situations where suppliers, such as those serving PIPP customers, base their prices on percentage discounts off the Expected Gas Cost (EGC) rate which is then unexpectedly altered.

A review of the recent history demonstrates that the GCR as currently structured has failed to operate effectively and needs to be reexamined and revised.

On July 1, 2002, COH filed an Application to adjust its GCR such that the Actual Adjustment Balances would be recovered over a twelve-month period with interest as opposed to the three-month period contemplated by the Commission's rules. The Application was approved by the Commission and this resulted in a reduction in the GCR from \$8.8676 per Mcf to \$6.2493 per Mcf from July 30, 2002 through October 27, 2002. In the Matter Of the Application of Columbia Gas of Ohio, Inc. for an Adjustment to its Gas Cost Recovery Rate, Case No. 02-1620-GA-UNC, Finding and Order, July 23, 2003.

Also on July 1, 2002, DEO filed an Application to adjust its GCR so that it recovered its Annual Adjustment over a five-month period instead of a three-month period as set forth in the Commission's rules. DEO also sought interest charges on the

deferred recovery. The result of this request was to reduce the GCR rate from \$6.88 per Mcf to \$5.01 per Mcf for the period of July 30, 2002 through October 27, 2002. In the Matter of the Application and Filing of the East Ohio Gas Company dba Dominion East Ohio of the Gas Cost Recovery Rate Effective July 31, 2002 to October 28, 2002, Case No. 02-1622-GA-UNC. The request was granted by the Commission in a Finding and Order dated July 23, 2002.

On December 2, 2002, DEO filed for another adjustment to its GCR, requesting approval of a four month as opposed to three month GCR rate. This request resulted from the previously approved adjustment to the GCR in PUCO Case No. 02-1622-GA-UNC, which created the anomaly of having three different GCR rates for the months of December through February. In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio Gas For Approval of a Four-Month Gas Cost Recovery Rate, Case No. 02-3144-GA-UNC. In its December 19, 2002 Finding and Order, the Commission allowed the GCR to be levelized over a four-month period; however, it disapproved allowing a similar adjustment to the Expected Gas Cost Recovery (EGC) rate.

In January, 2003, the LDCs filed new GCR rates to be effective for the three months of February through April. Two month later, a new filing has been made to once again alter the GCR. This pattern demonstrates that the GCR as currently applied is not working and needs to be overhauled. Germane to the request for a Commission ordered investigations are the Commissions comments in its Finding and Order in Case No. 02-3144-GA-GCR

In Case No. 02-1622-GA-UNC, the Commission approved DEO's application for a waiver . . . to extend the recovery

period of the BA from three months to five months. In that Entry, the Commission found that reducing the volatility of the BA results in a GCR rate more reflective of the market, thus providing a better price signal for customers considering alternative commodity suppliers. The Commission believes the current application is likewise intended to reduce volatility in the GCR rate and it is thus in the best interests of both LDC and choice customers for the Commission to also consider this application. . . .The Commission disagrees with the OCC's argument that efforts to even out large fluctuations in the quarterly GCR harm the Choice Program. On the contrary, the Commission believes such efforts will assist in developing the market in mitigating the need for suppliers to react to large changes in a non-market based price.

* * *

Regarding the request to convene a proceeding to examine alternatives to the current GCR mechanism, the Commission is already on record encouraging such discussions to take place, see, e.g., In the Matter of the Commission's Investigation of the Customer Choice Programs of Columbia Gas, et al., Case Nos. 98-593-GA-COI, et al. The Commission, however, will not order such a proceeding within this docket.

Id. at 3-4. In its Order, the Commission was supportive of a GCR rate that was more reflective of the market and better able to send customers the appropriate price signals. The Suppliers concur with this goal and believe that moving towards a monthly GCR, such as that proposed by the LDCs for April might mitigate many of the problems. The constant deviations from the GCR, coupled with market uncertainties frustrates supplier efforts to provide competitive services to Ohioans and militates in favor of amending the GCR. While the Suppliers support a monthly GCR in concept, the Suppliers believe that this alternative, among others, ought to be examined in a Commission investigation that would result in revised GCR rules prior to the next winter heating season. The

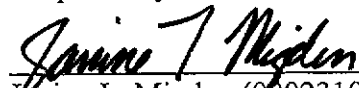
Commission is on record supporting discussions to examine alternatives to the current GCR. Given the events that have transpired, it is time to elevate those discussions to a Commission Ordered Investigation. Moreover, given the passage of House Bill 9 and the expansion and success of Customer Choice in this State, the GCR needs to be updated to reflect the current situation. All components of the GCR should be open for review and consideration within the Commission Ordered Investigation. Issues beyond the GCR mechanism ought to be open for review and consideration. Time is of the essence to make the changes before the next winter heating season to find a more permanent solution to the current GCR which the LDC filings for adjustments demonstrate is not working.

WHEREFORE, Shell Energy and Energy America respectfully request that the Commission promptly convene an investigation pursuant to Sec. 4905.26 Ohio Revised Code to examine alternatives to the current GCR mechanism and related issues.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by first-class mail,
postage prepaid or hand-delivered to the following parties of record this 13th day of
March, 2003.



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