NATURAL GAS

Introduction and overview

After being confronted in 2008 with the highest natural gas prices since 2005, consumers were greeted with rates that reached seven-year lows in 2009, giving consumers a much needed break. Even with the lower cost of natural gas, the Office of the Ohio Consumers' Counsel (OCC) was faced with several challenges to protect and educate residential consumers.

- Natural gas utilities were granted rate pricing changes that diminished the value of conservation, among other negative consequences, that the OCC appealed to the Supreme Court of Ohio.
- The continuing nationwide recession caused an increase in customers reaching out to the OCC to get help paying their bills.
- The process of local gas companies going to market each month to buy natural gas to supply homes and businesses was replaced with competitive bidding by multiple suppliers. The change required vigilance and advocacy to ensure better outcomes for consumers.

In 2009, the OCC continued its opposition to the straight-fixed variable (SFV) rate design. The SFV pricing structure drastically increases the fixed portion of a utility's distribution delivery charge while decreasing the portion based on a customer's usage. Through appeals to the Supreme Court, the OCC sought to protect consumers from SFV pricing because it is a disincentive for consumers to conserve energy and hurts consumers who use lower amounts of natural gas. The OCC asked the Court to overturn decisions made by the Public Utilities Commission of Ohio (PUCO) promoting the SFV rate pricing in the Duke Energy Ohio and Dominion East Ohio (DEO) distribution rate increase cases.

The OCC also led the way in the establishment and oversight of energy efficiency programs for each of the state's four investor-owned natural gas utilities. These programs were created in 2009 as part of settlements reached in 2008.

Major changes in eligibility requirements for consumers who receive assistance through the federal Home Energy Assistance Program (HEAP) occurred in 2009. The OCC anticipated more consumers applying for HEAP funds as Ohio's minimum income eligibility for aid rose from 175 percent to 200 percent of the federal poverty guidelines. The OCC worked with other agencies to alert consumers to this change and direct them to where and how to receive help.

During 2009, many Ohio consumers were presented the option of continuing to purchase natural gas from their utility or entering into a contract with an independent supplier. With these choices came the need for customers to develop a broader understanding of the natural gas market. Learning how to shop for a commodity traditionally provided by a regulated entity became important.

The OCC closely followed DEO's establishment of its standard choice offer in April. The OCC explained the complicated process to customers in a variety of forums. Many were confused at the prospect of seeing another company's name on their bills for the first time and concerned about the continuity of their natural gas supply.

In March, the OCC filed a complaint against DEO's retail affiliate, Dominion East Ohio Energy, alleging the company sent a postcard to DEO's customers that misled them into believing they must choose a supplier or risk loss of service. The matter was resolved in September.

Overall, Ohio's natural gas customers received lower bills during 2009. Wholesale prices steadily declined during the spring and summer before undergoing a slight increase as the weather turned cooler. Several factors contributed to this drop in prices. A cooler-than-average summer resulted in decreased demand for natural gas at peak periods of electric usage. Also, storage supplies remained at near-capacity levels throughout the year. An ample supply of natural gas is expected to remain for the foreseeable future.

Natural Gas

Duke customers achieved $3.5 million in savings in negotiated settlement

In April 2009, the Office of the Ohio Consumers' Counsel (OCC) negotiated $3.5 million in savings for Duke Energy Ohio's approximately 425,000 natural gas customers. The agreement was reached with the Public Utilities Commission of Ohio (PUCO) staff and Duke.

> "As of April 1, I must choose a gas supplier or one will be picked for me. How does this Standard Choice Offer work and does everyone really pay the same price? I need this information in order to pick a good supplier."
>
> *James Eastlake*
> *Madison, Ohio*
> *March 12, 2009*

The agreement modified Duke's request to adjust its Accelerated Main Replacement Program (AMRP) rider, which was approved by the PUCO in April 2009. The AMRP was designed by Duke to replace nearly 1,200 miles of cast iron and steel pipelines with plastic gas mains over 15 years. The request was filed according to the terms of an agreement signed in May 2008 and established a timeline for Duke to complete its AMRP. The company is permitted to recover the cost of this program via a rider that appears on residential customers' monthly bills.

The OCC objected to several aspects of Duke's proposal and succeeded in lowering the amount of the utility's request for cost recovery by $1.6 million. Duke sought to raise residential rates to pay for remedial camera inspection expenses from April 2001 through May 2006. Camera expenses result from the need to ensure sanitary or sewer lines were not breached during pipe installation. During negotiations, Duke agreed to eliminate this request in return for the right to defer collection until a future rate case.

Residential consumers saved an additional $1.9 million when Duke agreed to eliminate a request for funds earmarked for corrosion testing. The testing was required as part of remedial pipeline maintenance agreed to by Duke and the PUCO staff.

The OCC also recommended that Duke identify and document projects that might qualify for federal funding from the American Recovery and Reinvestment Act of 2009. The OCC argued that if Duke failed to apply for qualified projects, the amount should be reduced from the AMRP rate. Duke agreed to document its efforts to secure federal funding in its next AMRP filing.

Case No. 08-1250-GA-UNC

OCC intervened in Vectren Energy management performance audit

A management performance audit showed Vectren Energy Delivery of Ohio fairly applied its gas cost recovery (GCR) rates from November 2005 to September 2008. In May 2009, the staff of the Public Utilities Commission of Ohio (PUCO) accepted the audit's findings.

The Office of the Ohio Consumers' Counsel (OCC) intervened in the case on behalf of Vectren's 292,000 residential natural gas customers, but neither signed nor opposed the settlement among Vectren, PUCO staff and others who accepted the audit's findings.

The OCC said Vectren's rates should be no more than what is reasonable and lawful for adequate service under Ohio law. The OCC considered the economic impact of the utility conducting and then discontinuing certain sales practices on Vectren and its customers. The OCC also questioned whether Vectren's practices regarding its asset management agreements cost the utility income.

The OCC concluded it would not litigate the issues based on Vectren's discontinuation of some sales practices, for example the Price Volatility Mitigation Program. The early termination of the program resulted in substantial savings for Vectren GCR customers because natural gas prices were falling during this time period. Vectren lost its management fee income, which resulted from its exit of the merchant function in 2008. The PUCO approved the agreement in August 2009.

Case No. 08-220-GA-GCR

Columbia agreed to lower rate increase request for pipeline replacement program

The Office of the Ohio Consumers' Counsel (OCC) succeeded in negotiating a $1.4 million decrease in the annual cost to residential consumers for Columbia Gas of Ohio's Infrastructure Replacement program. The program repairs or replaces natural gas risers and old service lines considered potentially hazardous. A riser is the vertical portion of the service line that connects to the customer's meter.

The Public Utilities Commission of Ohio (PUCO) approved an agreement among the OCC, Columbia and the PUCO staff in June 2009. Under the settlement, the monthly cost to customers for the utility's pipeline replacement rider decreased to 86 cents from the originally requested 96 cents. Columbia filed its request with the PUCO based upon a prior agreement signed by participating parties in October 2008. The agreement established a schedule for cost recovery for the utility to complete its program.

The OCC successfully negotiated an agreement to spread the cost of consumer education over four years to reduce the immediate financial impact to customers. During the first year, these expenses to customers will be reduced by $374,439. The OCC also advocated for the elimination of training expenses from the proposal, reducing annual costs to customers by $79,414.

Additionally, the OCC requested the amount of the rider be decreased to reflect a $52,242 reduction to property tax expenses for the utility. The agency also argued Columbia's replacement of old plastic mains should not be recovered through the replacement rider, resulting in an adjustment of $216,522. As in the Duke AMRP case, the OCC recommended Columbia identify projects that might qualify for federal funding from the American Recovery and Reinvestment Act of 2009.

Because of the OCC's advocacy efforts, the total annual cost to consumers for Columbia's replacement program was reduced from $15,259,231 to $13,841,125, a savings of $1,418,106.

Case No. 09-0006-GA-UNC

OCC supported extension of Vectren's low-income weatherization program

The Office of the Ohio Consumers' Counsel and other interested parties agreed to Vectren Energy Delivery of Ohio's funding of a low-income weatherization program.

Vectren proposed an energy efficiency rider to the Public Utilities Commission of Ohio (PUCO) in March 2009. The cost to consumers was an additional 32 cents per hundred cubic feet (Ccf) of natural gas used. The PUCO approved Vectren's application.

The agreement enables Vectren to continue its low-income weatherization program, Project TEEM (Teaching Energy Efficiency Measures), that provides help for installing new furnaces, water heaters and insulation so qualifying customers can lower their natural gas bills.

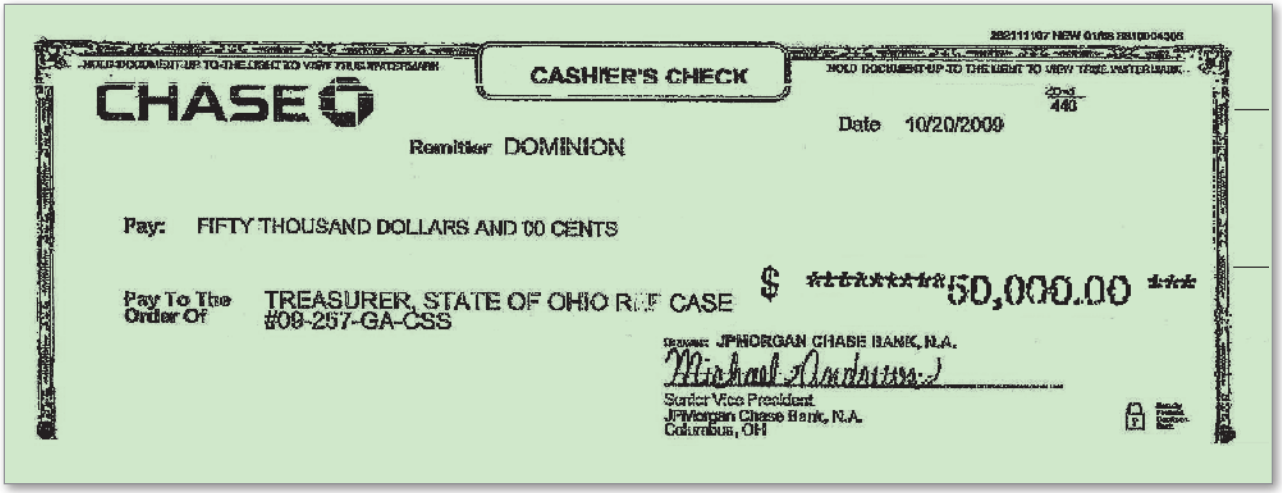
Case No. 09-254-GA-ATA

Natural gas marketer forfeited $50,000 after OCC filed complaint about postcard

The Office of the Ohio Consumers' Counsel (OCC) successfully protected consumers from an allegedly misleading and false postcard sent to Dominion East Ohio customers by a natural gas marketer. The violation resulted in a $50,000 fine, that was paid to Ohio's General Revenue Fund. Consumers who switched suppliers were held harmless from any termination fees.

The OCC claimed Dominion East Ohio Energy (DEOE), a retail affiliate of the natural gas utility, incorrectly informed Standard Choice Offer gas customers that their natural gas supply might be interrupted if they did not choose an independent supplier. In fact, they were under no obligation to take action.

The OCC also said the use of Dominion's logo and the size and placement of the affiliate disclaimer on the mailing were confusing and misleading to customers.


CASHIER'S CHECK

CHASE

Date 10/20/2009

Remitter DOMINION

Pay: FIFTY THOUSAND DOLLARS AND 00 CENTS

Pay To The Order Of TREASURER, STATE OF OHIO RE: CASE #09-257-GA-CSS

$ *********50,000.00 ***

JPMORGAN CHASE BANK, N.A.

Senior Vice President
JPMorgan Chase Bank, N.A.
Columbus, OH

Without admitting liability, natural gas marketer sent this check for $50,000 to Ohio's General Revenue Fund.

The Public Utilities Commission of Ohio (PUCO) staff and other concerned parties joined the OCC's position.

After several months of negotiations, the participants reached a settlement the PUCO then approved in October. Without admitting wrongdoing, DEOE forfeited $50,000. Further, the company agreed to forfeit $100,000 if it violates any PUCO rule governing marketing practices within one year.

In addition to the forfeiture, DEOE agreed to:

- Submit future marketing materials to the OCC and PUCO staff for review;
- Distribute a letter to customers who agreed to a fixed-rate contract as a result of the postcard, giving them the option of voiding the contract without penalty;
- Issue a separate letter to customers with variable-rate contracts reminding them they can switch suppliers at any time; and
- Adhere to standards governing the use of the utility logo in future marketing materials.

Case No. 09-257-GA-CSS

OCC argued for review of utility practices for recovering uncollectible expenses

In August 2009, the Public Utilities Commission of Ohio (PUCO) ordered an independent study of the impact of recovering from consumers the uncollectible debt of natural gas utilities.

Intervening on behalf of the state's residential natural gas consumers, the Office of the Ohio Consumers' Counsel (OCC) argued that a PUCO staff report failed to evaluate the impact on customers that results from paying riders on utility bills. The OCC said the report offered no recommendation regarding credit and collections. The report also failed to define the future regulatory oversight process.

The OCC also opposed allowing automatic adjustments to the uncollectible expense riders. At a minimum, the OCC said permitting utilities to control the timing of rider filings should be discontinued.

In its finding and order, the PUCO continued the collection mechanism for five years. The PUCO also ordered that benchmarks be established to monitor and measure the effectiveness of the utilities' collection policies, practices and performances.

In addition, the PUCO required a consultant to examine debt recovery procedures and deliver its report within six months from the date the contract was awarded. The OCC awaits the report from the North Star Consulting Group prior to considering any additional action.

Case No. 08-1229-GA-COI

Agreement paved way for auction to set natural gas prices in 2010

The Office of the Ohio Consumers' Counsel (OCC) participated in negotiations during 2009 resulting in major changes in the way Columbia Gas of Ohio customers purchase natural gas.

Traditionally, Columbia set its natural gas rates through the use of a gas cost recovery (GCR) method. At the end of each month, the utility adjusted its rate based upon the current wholesale cost of natural gas and a comparison between a customer's estimated usage and the amount they actually consumed.

To provide more competitive options to consumers, Columbia scheduled a wholesale auction for February 2010. Independent suppliers will be allowed to bid on a number of tranches (a slice of consumer demand). The low bid will be added each month to the wholesale price of natural gas listed on the New York Mercantile Exchange. This rate is called the Standard Service Offer (SSO), which will replace the GCR on customers' bills. The new rate is scheduled to go into effect in April 2010. Columbia is scheduled to hold a similar wholesale auction in 2011.

OCC BENEFITS FOR LOW-INCOME CONSUMERS IN 2009: The OCC negotiated almost $2.5 million in federal pipeline refunds that were mandated by the Federal Energy Regulatory Commission to provide additional emergency assistance for low-income consumers of all the major natural gas utilities. The OCC also negotiated with Columbia Gas of Ohio that the company contribute $600,000 per year for three years ($1.8 million total) to provide assistance to customers with incomes less than 200 percent of the federal poverty level.

Columbia customers who either choose not to, or are not eligible to, participate in Columbia's choice program will see the SSO price on their bills. The OCC supports a wholesale auction, which historically provides customers with their best opportunity to realize cost savings, particularly when the wholesale cost of natural gas is low.

Beginning with the 2010-2011 winter heating season, low-income consumers struggling to pay their natural gas bills will be able to receive additional assistance. The OCC negotiated with Columbia to contribute $600,000 per year for three years ($1.8 million total) to provide assistance to customers with incomes between 175 percent and 200 percent of the federal poverty level. The contributions will come from shareholder funds and be administered through local community action agencies.

Case No. 08-1344-GA-EXM

OCC appealed changes in distribution rate structures to Supreme Court of Ohio

The Office of the Ohio Consumers' Counsel (OCC) continued its efforts to protect consumers from a structural change in the way distribution service is priced by Ohio's regulated natural gas utilities as advocated by the staff of the Public Utilities Commission of Ohio (PUCO).

In September, attorneys for the OCC argued its case before the Supreme Court of Ohio. The case is a combined appeal of decisions by the PUCO in 2008 for Duke Energy Ohio and Dominion East Ohio. Duke customers saw increases of 300 percent and Dominion customers had increases of 250 percent to the fixed portion of the customer charge on their bills for distribution service.

The OCC provided evidence at earlier proceedings that the straight-fixed variable (SFV) rate design, a concept proposed by the PUCO staff, resulted in unreasonably large increases for low-usage and low-income customers. The OCC's experts testified that the rate structure provided a disincentive to conserve energy.

In arguments before the high court, the OCC's attorneys said the PUCO violated its statutory authority by implementing the new rate structure without providing sufficient notice to customers about changes to the delivery charges. The OCC argued that by seeking to impose a rate increase the utilities did not originally propose, the public received no notice of the change. Consumers were denied the opportunity to develop a full understanding of the financial consequences of the shift and, thus, were denied the opportunity to participate in the proceeding.

Attorneys Joe Serio (left) and Larry Sauer prepare for arguments before the Supreme Court of Ohio.

Prior to this change, the delivery charges in consumers' bills included a small fixed charge and a variable charge to recover the costs for delivery of natural gas. Natural gas delivery service includes billing, customer service, pipeline maintenance and repair. Through SFV pricing, the PUCO shifted the delivery charges into a significantly higher fixed rate while decreasing the volumetric portion.

The OCC maintains that low-use and low-income customers are penalized by this change. Generally, these consumers reside in apartments or small homes. Some consumers do not use natural gas to heat their homes, but to heat water. They will pay higher bills because they cannot avoid the high fixed charge even though their use is low. Meanwhile, customers living in large homes benefit by paying the same fixed rate while using larger quantities of natural gas.

Also, energy efficiency efforts, such as insulation, weather-stripping or replacing a furnace with a high efficiency model, are compromised because the SFV hinders customers who try to save money on their bills by lowering their usage. Customers are then faced with a longer period to recover the cost of their investment and realize a return on their conservation efforts. The OCC argued that a PUCO decision encouraging more and not less use is contrary to state energy policy.

The Supreme Court is expected to issue its decision in early 2010.

S.C. Nos. 2009-0314 (Dominion); 2008-1837 (Duke)