

Natural Gas

Overview

Preserving a century-old Ohio law that balances consumer and utility interests was a priority for the Office of the Ohio Consumers' Counsel (OCC) during 2013. In a Duke Energy (Duke) rate case, OCC recommended that the Public Utilities Commission of Ohio (PUCO) deny the utility's request to charge customers for the costs to clean up pollution at two long-defunct manufactured gas plant sites. OCC's recommendation was based on an Ohio law that limits utilities to charging customers for the reasonable costs of providing current utility service. Also, the law limits utilities to charging customers for property that is "used and useful" in rendering the public utility service. The natural gas utilities also sought legislation that would enable them to charge customers for the pollution clean-up costs.

In January, the PUCO approved two agreements that OCC and others negotiated during 2012. Those agreements preserved, for at least several years if not longer, the market-based auctions that have been very successful in lowering natural gas bills for customers of Columbia Gas (Columbia) and Dominion East Ohio (Dominion).

OCC also presented expert testimony in an audit case where two natural gas utilities were required to return nearly \$1.5 million to customers of Northeast Ohio Natural Gas (Northeast) and Orwell Natural Gas (Orwell).

In the Ohio House of Representatives, a bill supported by natural gas marketers was introduced that, if passed into law, would likely increase the price of the Standard Choice Offers that many customers pay for purchasing natural gas. Columbia, Dominion and Vectren Energy Delivery Ohio (Vectren) have Standard Choice Offers.

OCC opposed Duke's request to charge customers for clean-up of polluted manufactured gas plant sites

One of the most significant legal issues in Ohio ratemaking during 2013 was considered in a Duke rate case.

In an April agreement among OCC, the PUCO Staff, Duke and other parties, Duke's request to increase customers' distribution rates was reduced by \$44 million. One issue remained: Duke's proposal to charge customers for \$63 million to clean up its defunct manufactured gas plants. OCC and others asserted that, under a long-standing Ohio law, the PUCO is limited to allowing utilities to charge customers for the cost of their current utility service. And, OCC asserted, the costs of cleaning up pollution at manufactured gas plants are not the costs of current utility service under the law.

During the case the PUCO Staff cited this law and recommended that about 90 percent of Duke's request be disallowed. In June, the OCC Governing Board adopted a resolution opposing "efforts to weaken the 'used and useful' standard and other standards designed to fairly balance the interests of consumers and utilities."

In November, the PUCO decided to allow Duke to collect \$55.5 million in clean-up costs from its 420,000 natural gas customers. Two of the five PUCO Commissioners dissented from the decision. As a result of the PUCO's decision, natural gas customers will pay Duke a total of about \$100, on average, over five years. After the PUCO allowed Duke to charge customers for the clean-up costs, the OCC Governing Board voted to encourage OCC to take actions to protect utility customers.

OCC and others asked the PUCO to reconsider its decision. In a separate request, OCC and others asked the PUCO to prevent Duke from billing customers for the clean-up costs during any appeal to the Ohio Supreme Court. OCC's consumer advocacy on this issue will continue in 2014.

Duke, Case No. 12-1685-EL-AIR et al.

Standard Offers can provide lower natural gas prices for consumers

In 2013, Columbia, Dominion and Vectren held market-based auctions to set delivery prices for natural gas. OCC continued to support these competitive auctions, which produced either the same or lower results than the previous year for each of the three utilities.

Columbia, Dominion and Vectren do not currently purchase the natural gas they deliver through their respective pipes. Instead, independent natural gas suppliers compete in the auctions for the right to purchase and supply the gas to customers at the utilities' Standard Choice Offer prices. These prices combine the monthly wholesale price of natural gas with a smaller delivery price adjustment set through the auctions.

The auctions have typically provided customers with the lowest-priced option available. This pattern has continued for a number of years.

In this regard, a 2012 article in *The Columbus Dispatch* revealed that, since 1997, customers who selected a competitive natural gas supplier paid \$885 million more than they would have paid by continuing to purchase natural gas from Columbia.

In 2013, the PUCO approved two agreements that OCC negotiated with Columbia and Dominion that will preserve the option of the Standard Choice Offer for residential customers. The Standard Choice Offers will be preserved until at least 2017 for Columbia customers and 2016 for Dominion customers. After that time, the standard offer would continue for residential consumers unless others request to end it and the PUCO approves their request. The Columbia agreement provided

that six local public hearings would be held in the event of any proposal to end the standard offer.

*Dominion, Case Nos. 12-1842-GA-EXM; 07-1224-GA-EXM
Columbia, Case Nos. 12-2637-GA-EXM; 08-1344-GA-EXM
Vectren, Case No. 07-1285-GA-EXM*

Northeast, Orwell penalized for practices resulting in unreasonable rates to customers

In 2013, OCC and the PUCO Staff provided evidence to the PUCO showing that the Northeast and Orwell natural gas utilities charged unreasonably high gas prices to their customers. Northeast has about 14,100 residential customers and Orwell has about 7,230 residential customers.

A 2012 audit revealed that Northeast and Orwell had continued the same unreasonable purchasing practices that were addressed during a previous audit in 2010. In a 2011 settlement among OCC, the two utilities and the PUCO Staff, Northeast and Orwell committed to terminating gas purchasing contracts that favored their affiliated companies.

But the 2012 audit revealed that customers were still paying unreasonably high prices for their natural gas. OCC recommended that the PUCO require the utilities to return nearly \$1.5 million to customers and called for more than \$200,000 in penalties against the two utilities for violating the law.

The PUCO's November decision required the utilities to credit nearly \$1.5 million to the benefit of their customers. Northeast customers were credited nearly \$985,000; Orwell customers were credited about \$476,000. The PUCO also took the unusual step of penalizing both utilities for their violations of law (\$26,000 against Northeast and \$50,000 against Orwell).

In their strongly worded Order, the PUCO Commissioners stated, "The extent of the unawareness and negligence of the senior management of the Companies to their managerial and fiduciary duties and responsibilities, the failure to enforce internal controls, the lack of control over access to company records, the impropriety of the

compensation system for employees of the Companies, and the functional absence of responsible persons serving in management positions, all of these situational deficiencies appear to be the norm, rather than the exception, and raise sufficient legitimate concerns.”

Northeast, Case No. 12-209-GA-GCR
Orwell, Case No. 12-212-GA-GCR

OCC recommended preserving existing law when natural gas utilities sought legislation to allow charging customers for costs to clean up old plant sites

Natural gas utilities sought an amendment that was added to Ohio’s two-year state budget, Amended Substitute House Bill 59. The amendment would have allowed the utilities to charge customers for the costs to clean up manufactured gas plant sites where pollution began in the mid-1800s. Ultimately, the Governor vetoed the amendment.

Currently, a long-standing Ohio law protects consumers by limiting charges on their utility bills. The law limits utilities to charging customers for the reasonable costs of providing the current utility service. And the law limits utilities to charging for only that amount of their property that is used and useful in the rendering of current utility service.

OCC presented its recommendations for consumer protection to an Ohio Senate Committee in May 2013. And the OCC Governing Board adopted a resolution, in June 2013, expressing its opposition to “efforts to weaken the ‘used and useful’ standard and other standards designed to fairly balance the interests of consumers and utilities.”

Legislation could increase natural gas prices

Ohio House Bill 102 (HB 102) was introduced in March. With the Bill, some natural gas marketers sought to increase the price of the Standard Choice Offer that many customers pay, claiming that it’s a subsidized rate. Also, the marketers compete for business against the Standard Choice Offer.

OCC opposed HB 102, and supported preservation of the existing Standard Choice Offer. One reason the Standard Choice Offer should be preserved against regulatory changes to increase its price is that it is a reflection of the cost of natural gas on the open market. OCC supports the continuation of the Standard Choice Offer.

The Bill did not receive a hearing in 2013.