

Taking heat

Deregulation held the promise of cheaper natural gas, but some consumers and advocates say marketers are taking advantage -- and regulators are letting them.

Sunday, May 3, 2009 3:36 AM

BY DAN GEARINO

THE COLUMBUS DISPATCH

Natural-gas deregulation was supposed to be a terrific deal for Ohioans: lower prices and more options.

More than a decade later, there is mounting evidence that customers are the losers in this setup. But regulators are largely unaware or unconcerned.

Deregulation opened the door for aggressive gas marketers who sell fixed-rate contracts. Consumers generally end up paying more than if they had stayed with Columbia Gas of Ohio, whose rates are regulated by the state.

"People are getting screwed," said Dave Rinebolt, executive director of Ohio Partners for Affordable Energy, an advocacy group for low-income customers.

His awareness of the situation is rare among regulators and consumer advocates. Most interviewed for this story said they were surprised by findings of *The Dispatch's* investigation, which revealed:

- Ohio's natural-gas prices shot above the national average from 2005 to 2008, representing a total difference for customers of \$796 million, based on a *Dispatch* analysis of federal Energy Information Administration data. Before that, Ohio's prices were below the national average for all but two years since 1967.
- Gas marketers -- companies that compete with Columbia and often bring natural gas to the market from other sources -- were



LEONARDO CARRIZO | DISPATCH
PHOTOS

Anna Clark, 67, wound up with high winter heating bills because of an automatically renewing natural-gas contract signed years ago by her late husband. Her daughter helped her cancel it.



supposed to help customers save money. But the federal energy agency says that marketers' average prices in Ohio were 7 percent higher than those of rate-regulated utilities in 2007, the most recent year for which statistics are available.

That means some people have overpaid to heat their homes by up to hundreds of dollars per month, often because of contracts that they did not understand, customer complaints show.

A proposal by Columbia Gas, if approved, would take deregulation a step further. Within a few years, this could lead to Columbia's exit from the retail business and require all customers to contract with a marketer.

A variety of factors can explain the changes in Ohio's natural-gas prices, but at least one thing is clear: Deregulation hasn't produced lower prices.

"I think there is a serious question of how much consumers have benefited," said Ken Costello, chief of the natural-gas section at the nonprofit National Regulatory Research Institute in Silver Spring, Md. "If they're not, why is it? The expectation was that customers would benefit from the competition."

Ohio was among the first states to open its gas market to alternative suppliers. Marketers, such as Direct Energy and IGS Energy, now supply nearly 50 percent of residential customers, the highest share in any state that provides such an option.

And yet, there has been little effort by anyone to assess whether the system has been good for Ohioans.

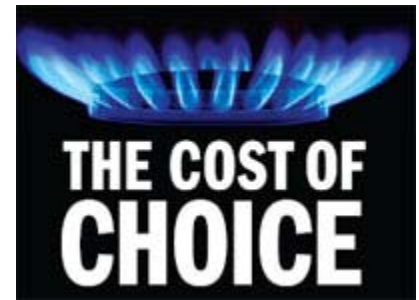
Anna Clark, 67, of Bucyrus, has never heard of deregulation. All she knows is that her gas bill for February was \$647, and she can't afford to pay it.

"Nobody is taking advantage of my mother," said Clark's determined daughter, also named Anna Clark, who is helping her mother dig out from the heating bills. "It's not happening as long I'm around."

The elder Clark was bound by a contract signed years ago by her husband, who died of cancer in 2006. The fixed-rate contract with Houston-based Direct Energy included a provision to automatically renew it at a new rate when its term expired. Ohio didn't allow such deals before deregulation.

Clark didn't know about the contract until the rate and her bills shot

Clark's home in Bucyrus



Today's coverage

- [Gas consortium not paying off](#)
Monday, May 4, 2009
- [Graphic: Expensive gas](#)
Monday, May 4, 2009
- [Graphic: How natural gas is processed, sold and delivered](#)
Sunday, May 3, 2009
- [Graphic: Costlier gas](#)
Sunday, May 3, 2009
- [Taking heat](#)
Sunday, May 3, 2009
- [Persistent telemarketers press for gas contracts, and customers pay more](#)
Sunday, May 3, 2009
- [Columbia Gas' rate often best](#)

up. Paying \$1.59 per 100 cubic feet of natural gas before taxes and fees, her costs were 64 percent higher than those of Columbia customers.

Her example is extreme but not isolated. Howard Berger, 84, of the Northwest Side, paid \$416 in January under his fixed-rate contract with Dublin-based IGS Energy. Another IGS customer, Albert Lohri, 89, of the North Side, paid \$394 for heat in December.

Thousands of people accepted gas marketers' aggressive sales pitches -- conducted over the phone, in person and through the mail -- and signed up for contracts that automatically renewed when they expired, and at whatever rate the marketer decided to charge.

Doug Austin, IGS vice president, said the company has "bent over backwards" to respond to customers' concerns. He said high rates are the result of high commodity prices last summer and fall, and not a reason to doubt the value of fixed-rate deals.

"Fixed rates are for protection against volatility," he said.

Lack of oversight

Government officials, including the Public Utilities Commission of Ohio and the Office of the Ohio Consumers' Counsel, have taken little action to set boundaries for marketers. That's clear, based on a review of a decade's worth of public comments, reports and actions from the agencies.

In fact, the agencies have repeatedly praised the system.

"Ohio has one of the most successful natural-gas-choice programs in the nation," the PUCO said in its 2008 year-in-review report.

Ohio Consumers' Counsel Janine L. Migden-Ostrander and her office are specifically charged with helping customers get lower utility rates, but she was unaware of the situation.

Presented with findings from this report, she found them "disturbing and very upsetting."

"We will take a closer look," she said. Critics suggest that she might have a blind spot for natural-gas marketers.

Before becoming the state's consumer advocate, Migden-Ostrander was a lawyer whose clients included natural-gas marketers. Before that, she was a lobbyist for Enron Corp., the company that pushed

Sunday, May 3,
2009

- [Some businesses saving money](#)
- Sunday, May 3,
2009

Graphics

- [Graphic: Plan participation](#)
- [Graphic: Costlier gas](#)
- [Graphic: How natural gas is processed, sold and delivered](#)

By the numbers

6

The number of years since 1967 that Ohio's average residential gas price was above the national average. Those years were 1983, 2001 and 2005-08.

\$4.4 billion

Ohio's 2008 residential spending on natural gas.

\$796 million

The premium that Ohio residents paid from 2005 to 2008 because the state's average residential gas rate was

to ease government control over energy regulations and then famously went bankrupt.

"She used to represent marketers, and she thinks markets are a good thing," said Rinebolt, the advocate for low-income customers. That background has made her slow to realize the harmful effects of deregulation, he said, though he added that he doesn't doubt that she has good intentions.

From the start, she has used her office to promote "gas choice" as a boon for customers.

Since she took the job in 2004, Migden-Ostrander's office has issued about 360 news releases, only three of which were warnings about misleading solicitation practices by marketers. All three times, the messages were about Dominion East Ohio Gas, a rate-regulated utility like Columbia Gas but one that also operates a separate gas-marketing company.

She hasn't issued any similar message about companies that operate solely as gas marketers in Ohio.

Migden-Ostrander said it is "flat-out wrong" to suggest that her background has hurt her performance as the state's consumer advocate.

She continues to believe in deregulation, and she said that marketers can serve a vital function. "Having marketers at the heels of the utilities makes them better utilities," she said.

In fact, she has clashed with marketers a few times, such as in 2006, when her office filed a request for greater public disclosure of solicitation materials. She also asked marketers to take steps to ensure that consumer sign-ups are genuine.

Her counterparts in other states, including Illinois and Pennsylvania, have been more aggressive with marketers. This is one reason the Illinois governor just signed a package of consumer protections, including a \$50 limit on fees for cancellation of contracts with marketers.

"Hundreds of thousands of consumers are paying substantially more than they should on their gas bills, often because unregulated suppliers misled them or didn't give them all the facts," said David Kolata, executive director of the Citizens Utility Board in Illinois, in a warning to consumers.

above the national average.

1.4 million

The number of Ohio residential customers who buy their natural gas from a marketer as opposed to a rate-regulated utility. Georgia is the only state with more.

48 percent

The share of Ohio residential customers who buy from gas marketers.

4.7 million

The number of residential customers in the country who buy from gas marketers.

30 percent

The share of the country's marketer customers who live in Ohio.

8

Ohio's rank in per-capita consumption of natural gas for 2006, the most recent year available. Texas was highest and Hawaii was lowest.

Ohio law gives the PUCO limited regulatory authority over marketers. The agency is responsible for licensing marketers and responding to customer complaints. In the past nine years, the PUCO has opened three investigations of marketers' solicitation practices.

Source: Energy Information Administration

Like the consumers' counsel, the PUCO has promoted gas choice and generally portrayed the initiative positively.

"We are the venue for complaints and, when we get them, we act on them," said PUCO Chairman Alan Schriber, who has led the agency since 1999. "And frankly, we don't have a whole lot" of complaints.

But *The Dispatch* found numerous complaints about marketers by reviewing customer comments filed with his agency.

Hundreds of customers have complained about aggressive solicitations, misleading offers and high bills. But the PUCO doesn't track complaints against marketers. It doesn't even separate them from general comments. The PUCO received nearly 3,000 pages of customer comments for the first four months of this year alone, with no indication of which are complaints.

The lack of oversight has led to frustration for customers. Chris Goddard, 40, a public-school teacher who lives in Gahanna, filed a complaint with the PUCO last year. He was shocked at the agency's response.

"They kind of shrugged their shoulders," he said.

He was upset that marketers are allowed to automatically renew contracts at different rates. For two years in a row, IGS Energy tried to renew him at a rate greater than the company was offering in public solicitations.

His first thought was, "Can they do this?" The PUCO told him the marketer had done nothing wrong. Ohio law, the PUCO said, allows IGS to automatically renew a contract at a higher rate as long as the company notifies the customer in writing, usually via a postcard. The customer needs to cancel the contract in writing before it takes effect or there may be a cancellation charge.

"I think it's a total scam," Goddard said.

How we got here

Ohio has allowed businesses to buy gas on the open market since the mid-1980s. In 1997, Columbia Gas began allowing residential customers the same kinds of choices.

The company saw deregulation as an opportunity, not a threat, said Jack Partridge, a longtime Columbia executive who is now company president. Columbia had long battled the image that its rates weren't competitive, which led to a contentious relationship with regulators and customers, he said.

Deregulation would help solve this public-relations problem, with almost no financial sacrifice.

The new competition would be for the natural gas itself, on which Columbia made virtually no profit. Columbia makes most of its profit on transportation fees, and the new marketers would have to pay to use Columbia's pipelines to deliver gas. Although Columbia would no longer have a monopoly on the sale of gas, it would be the only company transporting it.

"We tried to create legitimate win-wins for everybody," Partridge said.

The choice program began with a pilot project in the Toledo area and expanded to all of Columbia territory, including central Ohio, by 1998.

Deregulation was sold as a customer-friendly modernization of an antiquated system, said John Howat, senior policy analyst for the National Consumer Law Center in Boston. Enron was a leading proponent of this line of reasoning, he said.

"I sort of bang myself on the head and ask, 'What were we thinking?' " he said.

Politics also played a role. Ohio Republicans generally supported deregulation, and the party controlled the legislature and the governor's office throughout this period.

In the 1998 gubernatorial race, Republican Bob Taft, the eventual winner, supported expanding the choice program. Democrat Lee Fisher, who is now lieutenant governor and a U.S. Senate candidate, was more cautious, saying that the state needed to ensure that the system had "fair and honest management practices."

"This was the era when communism had fallen and the Berlin Wall was down," said Barbara Alexander, a Maine-based utility-policy consultant who works nationwide. "It was the American way to encourage competition."

The problem, she said, was the way Ohio wholeheartedly bought into this system and then put few resources into studying how well it had worked.

At first, deregulation was a net gain for customers, saving several million dollars in the first year, Partridge said. But he concedes that the savings have dwindled.

One of the top reasons, he said, is that marketers seem to have viewed the initial contracts as "loss leaders," with unsustainably low prices to build a base of customers. By now, the marketers' profit margins have "tightened up," and consumer savings are much harder to find, he said. Despite this, he continues to believe deregulation is good for Ohio.

The growing volatility of national energy prices also has played a role, he said. Natural-gas prices used to peak in the winter, but the most recent peak was in July. This new unpredictability has made it more difficult for customers to know when to lock in prices.

Doing the right thing

With her daughter's help, Anna Clark has canceled her contract with Direct Energy.

Direct Energy spokeswoman Yvette Hamilton said she sympathizes with Clark's situation. She said a fixed-rate plan might not have been the best option for this household, and customers should shop around to find the plan that's best for them.

"Direct Energy really feels for this family," she said.

Two weeks after *The Dispatch* contacted Direct Energy, the company said it would send Clark a check for \$483 to help cover her heating costs.

That's not good enough for Clark's daughter. She notes that the rate of \$1.59 per 100 cubic feet was higher than anything Direct Energy advertised to new customers last year.

But her mother isn't the type to get angry. Her living room is decorated with family photos, including many of her with her husband, and the wall clock is faced with a painted image of Jesus.

"I try to do right," she said.

And for her, that means she will tell her friends and family to avoid contracts like the one that has wiped out her finances.

dgearino@dispatch.com

Anna Clark has never heard of deregulation. All she knows is that her gas bill for February was \$647, and she can't afford to pay it.

Hundreds of customers have complained about aggressive solicitations, misleading offers and high bills. But the PUCO doesn't track complaints against marketers. It doesn't even separate them from general comments.

-
- Telemarketers part of problem D1

Ads by Yahoo!

Columbus Electricians

Find Columbus Electricians and Electric Contractors at YellowPages.

(Electrician.YellowPages.com)

Resolution Media, Chicago

Search Engine Marketing & Search Engine Optimization with Results.

(ResolutionMedia.com)

Columbus Dispatch

Browse a huge selection now. Find exactly what you want today.

www.ebay.com

©2009, The Columbus Dispatch, Reproduction prohibited