

# Fine Print

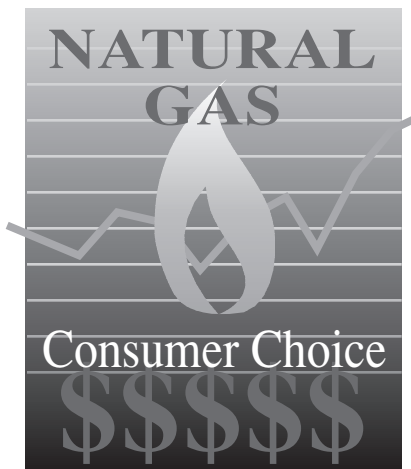
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## NATURAL GAS CHOICE GIVES SMALL BUSINESSES, RESIDENTIAL CONSUMERS SAVINGS OPPORTUNITIES

By the Ohio Consumers' Counsel

Since Ohio's first natural gas choice program was developed in 1997, many small businesses and residential consumers have been able to select the company that supplies their gas. Today, more than 1 million customers are being served by a competitive supplier and collectively have saved over \$130 million.



Customers of Ohio's four largest regulated natural gas companies are able to participate in a choice program: Cincinnati Gas & Electric, Columbia Gas of Ohio, Dominion East Ohio and Vectren Energy Delivery of Ohio.

What does "choice" mean? It means that customers are able to continue to purchase gas from their regulated utility or choose to select an alternative natural gas supplier. The supply of gas

makes up 60 to 70 percent of the total cost of a typical gas bill. Many services continue to be provided by the regulated utility to all customers. For example, the utility will still deliver natural gas into all homes and businesses, read the meters, assist with billing and respond to emergencies.

Customers who choose to remain with the utility for the supply of gas continue to pay a regulated rate. The regulated rate, also called the "Gas Cost Recovery" (GCR) rate, changes every three months. Customers who participate in a choice program pay for natural gas based on a rate offered by the supplier. Choice programs enable consumers to take advantage of the competitive market and selec-

tively shop for the best price or other incentives.

Small businesses and residential consumers evaluating their natural gas choice options should consider the following factors:

■ The utility's regulated rate fluctuates based on market conditions. Among other factors, a mild winter could lower prices while an abnormally cold winter could send gas prices rising. Many supplier offers cannot guarantee that consumers will save money by switching to a supplier.

■ There are several different types of supplier offers. Suppliers may offer a fixed rate for a specified period of time, a variable rate that can change with market conditions or even hybrid programs that often have different summer and winter rates. Some suppliers may offer incentives and promotions, such as a free month of natural gas, a rebate or a gift certificate.

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## EMPLOYERS HAVE "QUALIFIED PRIVILEGE" WHEN CONVEYING INFORMATION ABOUT EMPLOYEES

**Q:** My employee has accused me of including false information in his performance review. Does he have any legal recourse?

**A:** As long as you did not know the information was false and did not act with reckless disregard as to its truth or falsity, you are generally free to express your opinion in a performance review, even if that information is false. In Ohio, employers are protected by what is called a "qualified privilege." This privilege generally allows employers to freely communicate their thoughts about employees.

**Q:** What is a "qualified privilege"?

**A:** Qualified privilege means that the employer's communication is protected

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For additional copies of **Fine Print**, or further information, please contact OSBA Public Relations, 1700 Lake Shore Drive, Columbus, Ohio 43216-6562, or by phone, 800/282-6556 and 614/487-2050. Articles appearing in this newsletter are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.

## NATURAL GAS CHOICE, cont. from page 1

■ Businesses and residential consumers may be able to enroll by telephone, mail, fax, Internet or with a door-to-door salesperson. Whichever method is used, it is critical that consumers obtain and keep copies of the supply agreement and any promotional information received from the supplier.

The Ohio Consumers' Counsel (OCC), the residential utility advocate, provides free resources to help learn about gas choice and available offers. The "Gas Choice 101" guide educates consumers about choice programs and how to choose a supplier. "Comparing Your Energy Choices" is a side-by-side chart of available natural gas offers

updated weekly for customers of each company participating in a choice program. "Calculating Your Energy Choices" provides interactive calculators through the Web to help consumers compare rates of natural gas suppliers to their current natural gas company.

To access the OCC's free resources, call the agency toll free at 1-877-PICKOCC (1-877-742-5622) or visit [www.pickocc.org](http://www.pickocc.org).

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*This article was prepared by the Ohio Consumers' Counsel, the residential utility advocate.*

"QUALIFIED PRIVILEGE," cont. from page 1  
by law unless:

- it was not for a legitimate purpose; or
- it was communicated to a person without a need to know; or
- it was made with actual knowledge that it was false or with reckless disregard as to its truth; or
- it was made for a discriminatory reason related to an employee's race, religion, age, disability, national origin or gender.

**Q:** If an employer knowingly communicates false information about an employee, is it considered defamation?

**A:** Possibly. Defamation is a false publication (either orally in writing) to a third party that:

- causes injury to a person's reputation; and
- exposes the person to public hatred, contempt, ridicule, shame or disgrace; or

■ affects the person adversely in his or her trade or business.

However, defamation does not include opinions unless they involve or imply false statements of fact.

**Defamation does not include opinions unless they involve or imply false statements of fact.**

**Q:** I own a small business, and one of my employees is asking to see a copy of her personnel file. Am I obligated to provide it?

**A:** If you are an employer in private industry, Ohio law does not require you

to provide copies of personnel files unless there is an employment contract, employee handbook or collective bargaining agreement that says otherwise.

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*This article was prepared by Fred Gittes, a partner in the Columbus firm of Gittes & Schulte and a member of the OSBA's Labor and Employment Certification Specialty Board.*

## IN THE HOPPER

*From the OSBA Office of Government Relations*

**T**he controversial "tort reform bill" (Senate Bill 80) passed the Ohio Senate on June 11, 2003, and will be considered by the House beginning this Fall. Changes to the bill are expected.

Highlights of the bill (as passed by the House) follow:

■ Damages would be capped for non-economic loss in all tort actions. For non-catastrophic injuries, the maximum award would be \$350,000 for each plaintiff or a maximum of \$500,000 for each occurrence. In the case of a catastrophic injury, such as loss of a limb, the cap would be \$500,000 per plaintiff or \$1 million per occurrence.

■ The amount of punitive damages that could be recovered would be capped up to the amount of actual economic damages, or \$100,000, whichever is greater. In the case of a small employer with fewer than 500 permanent, full-time employees, the cap would be the amount of economic damages or \$100,000, whichever is less.

■ Product liability and construction-related claims would have to be filed within 10 years from the date the product was delivered or the date design services were performed.

■ Plaintiffs in civil actions based on asbestos claims would have to file, along with their lawsuits, written reports and supporting test results demonstrating physical impairment that meets specific minimum requirements.

■ Any evidence of a plaintiff receiving collateral benefits (for example, if a plaintiff has other insurance that may cover his/her expenses) may be introduced in court.

■ Plaintiff attorney contingency fees would be capped at 35% of the first \$100,000 recovered on a claim; 25% on the next \$500,000; and 15% of any amount over \$600,000.

■ A "Legal Consumer's Bill of Rights" would have to be attached to every written retainer agreement or contract for legal services.

■ More stringent standards would be established regarding frivolous lawsuits.

### Web site resource for small businesses:

To learn about programs offered by the U.S. Dept. of Labor's Office of Small Business, go to <http://www.dol.gov/osbp>.