PROPANE
CLEAN AMERICAN ENERGY™

# Ohio Propane News

Volume 23, No. 3 Autumn 2015

## OPGA Welcomes New Officers and Directors for 2015 – 2016!

Brian Buschur
McMahan's Bottle Gas

**Brian Buschur**, of McMahan's Bottle Gas has been elected President of OPGA. Brian currently serves as the Chairman of the Autogas/New Technologies Committee and has been an active member of OPGA for 13 years. Brian has 18 years of experience in the propane industry and first started at the age of 16 when he helped his father by refilling cylinders and painting tanks. Brian is active with the NPGA Benchmarking Council and serves weekly at his church. Brian and his wife, Amber, have been married for 12 years and have three children.

**Frank Edwards**, of Linden's Propane, has been elected Vice President of OPGA. Frank currently serves as the Chairman of the Propane Awareness Committee. He has been in the propane industry 13 years. He started as a dock helper loading trucks and was fortunate to have worked all positions in the field, prior to moving into management. He and his wife, Mandy, have been married 12 years. They have been blessed with three beautiful children: Jasmine the oldest is 14 and enjoys cheerleading, their oldest son will be 12 in October and loves football, and their youngest child, Dominic, has chosen soccer as his sport. Frank and his family are heavily involved in the Christian community through St. Joseph's Catholic Church. He spends a lot of time volunteering for sporting events or local gatherings wherever help is needed. He feels truly blessed as he lives the dream of good health, a great family, and wonderful friends!

**Terry Clevenger** of OE Meyer Co has been elected Treasurer of the OPGA. Terry serves as Chairman of the Code & Safety Committee. Terry has 38 years in the propane industry with the past 8 years at OE Meyer Co. as the Propane Division Manager. Terry and his wife Sherry have been married for 38 years and have two sons.

**George Walton** has been elected as Secretary of the OPGA. He is Chief Operating Officer of Prism Propane Services of Ohio, LLC, headquartered in North Baltimore. In business since 1998, the company has ventured into forklift cylinders, along with its autogas fueling and commercial and residential heating divisions.

George is a staunch proponent of the greener properties of propane gas and has given the order to convert Prism's fleet vehicles to propane fueling. He doubles as the president and CEO of Hancock-Wood Electric Cooperative – managing a $44 million annual budget to provide energy to a territory occupying 10 northwest Ohio counties and a Lake Erie island.

George holds a bachelor's degree in electrical engineering and a master's degree in business administration. He and his wife Mona Lynn and son Mekhi reside a mile from Prism offices and the couple's daughter Monique is employed at a local logistic company. George is active in his community, supporting his son's school sports and promoting the family's church, Jerusalem Baptist, regularly playing his guitar to enhance the choir's performance.

BLUEGRASS 'N BARBEQUE

**OPGA 67th Annual Summer Convention**
**1948-2015**

*See highlights on pages 12-13!*

**Go to www.OhioPropaneGas.org for more convention photos!**

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Linden Propane Service
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TREASURER
**Terry Clevenger**
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SECRETARY
**George Walton**
Prism Propane Services of Ohio
george_walton@prismpropane.com

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bherron@theenergycoop.com

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*(1 Year)*

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SOUTHERN DIRECTOR
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*(1 Year)*

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**David Bertelsen**
Matheson Tri-Gas

**Eric Sears**
Auxier Gas Inc.

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**Eric Sears** Auxier Gas

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CONVENTION
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**Ralph Arrick,** Arrick's Propane

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McMahan's Bottle Gas

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*Costs you nothing to participate!*

# OPGA Continues Legislative "Triple Play" Program

State legislators need improved contact with their constituent propane marketers. State legislators don't know who to ask when they and their constituents need real-time answers to local questions.

To help OPGA members establish relationships with their elected state legislators, OPGA sponsors the *"Triple Play"* program.

Our *"Triple Play"* program allows individuals to take up to a $50 **state tax credit** (or $100 on a joint return) for personal contributions made to the campaigns of state office holders. Our OPGA PAC will match the member's contribution and send a letter to the candidate asking him/her to use the contributing propane marketer as a sounding board for propane and related energy legislation.

**To participate:** all you have to do is send a copy of a personal check written to a candidate for state office to OPGA PAC (17 S. High St., Suite. 200, Columbus, OH 43215). We'll send a matching contribution to that candidate, along with a letter indicating that it's a direct result of YOUR contribution… and that the recipient should use YOU as a source of local propane/energy information.

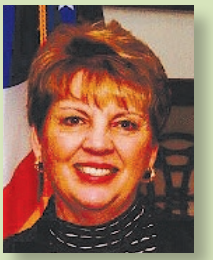
***The best part?*** Participation in the "Triple Play" program COSTS YOU NOTHING! Because the amount is a *tax credit*, you either pay it to the state in taxes… or raise your local visibility by contributing it to a candidate for the Ohio Senate, House of Representatives or other state office.

## Berquist Open House

*Bergquist Open House August 2015 with Congressman* ***Robert E. Latta*** *(OH-05).*

## National Propane Gas Scholarships Available

*by Rosie Buschur*



***Do you have any employees whose children are eligible to apply for the National Propane Gas Scholarships?***

Wouldn't you love to see a deserving child receive $1,000, or possibly $2,000 toward their college education? Do you think that $1,000 doesn't sound like it will make much of a difference, considering the price of college tuition? I have been a member of the National Propane Gas Scholarship Committee for the last eight years. We have heard so many great comments from past winners, and I can guarantee it made a difference to them! So, please be sure to let all your employees and their children know that the online application process is now open. If they go online to National Propane Gas Scholarship Fund, they will find answers to frequently asked questions, information on eligibility requirements, and how to complete their application. **The deadline is February 15, 2016.** I would highly recommend not waiting until the last minute to start the process. Students can reapply every year they are in school, even if they have been a previous winner. If you have any questions, please feel free to contact me rbuschur@mcmahansbottlegas.com.

## Benefits to OPGA Members

**Newsletters**
Four publications a year from OPGA

**Member Directory**
Publication available at OPGA meetings

**Vanco Credit Card Processing**
1-800-675-7430 – Patrick Heraghty

**Scholarships – OPGA**
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614/228-4733

**Workers' Comp Group Rating Program**
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Andrew.Frank@CareWorksComp.com

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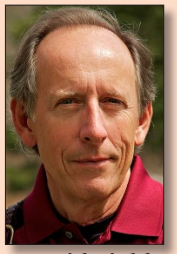
# Ohio News

*Propane Issues in Play*

## Ohio General Assembly Back at Work



**David Field**
*OPGA Executive Vice President*

The Ohio General Assembly returned in September from its summer recess. Three bills are being consideration that could affect propane marketers:

### HB 176: Alternative Fuel Conversion

The House Ways and Means Committee agreed to the Alternate Fuel Conversion bill on June 23 just before recessing for the summer. It has now been referred to the House Finance Committee to approve an appropriation.

The bill would create the Gaseous Fuel Vehicle Conversion Program, allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, apply the motor fuel tax to the distribution or sale of compressed propane and natural gas, and authorize a temporary, partial motor fuel tax exemption for sales of propane and compressed natural gas used as motor fuel.

### HB 71 Would Prohibit Unfair Terminal Insurance Requirements

The Senate Civil Justice Committee has approved HB71, which would prohibit certain indemnity agreements in motor vehicle carrier transportation contracts.

HB71 is a significant step in leveling the playing field between propane motor carriers and terminals, by preventing shippers, in the case of their own negligence, from demanding that the motor carriers (or the motor carrier's insurance provider) pay for the defense and damages arising from the shipper's negligent actions. 42 states have enacted "anti-indemnification" statutes.

### HB 77: Home Improvement Contractor Registration

This bill, which would establish statewide registration for home improvement contractors, has had four hearings in the House Commerce and Labor Committee.

As defined in the bill, "Home improvement includes the repair, replacement, remodeling, alteration, conversion, modernization, improvement, rehabilitation, or sandblasting of, or the addition to, any residential building," but "does not include the sale of appliances such as stoves, refrigerators, freezers, room air conditioners, and other appliances that are designed for installation in, and are easily removable from, a residential building without material alteration of the residential building."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# Prism Propane holds Autogas Propane Fueling Station Grand Opening for "Greener" Fueling Option in NW Ohio

**North Baltimore, OH–October 5, 2015–** Prism Propane Services of Ohio LLC, held a grand opening ceremony to introduce its Autogas Propane fueling station as a "greener" fueling option in northwest Ohio. Speakers for the event included: U.S. Congressman **Bob Latta**, State Senators **Randy Gardner** and **Cliff Hite**, county commissioners, local elected officials and area school superintendents.

North Baltimore Mayor **Mike Julien** began the ceremony by acknowledging Prism Propane and Hancock-Wood Electric Cooperative's support given to the community over the years and the impact the fueling station will have.

Mayor **Julien** said, "By opening this Propane Autogas fueling station, Prism Propane is giving our communities an environmentally clean and cost effective fueling option. This investment of the fuel station proves Prism Propane's commitment to a better future for local schools and businesses."

Congressman **Latta** echoed the mayor's support for Prism Propane and Hancock-Wood Electric Cooperative by addressing Prism COO **George Walton** and saying, "We were able to put laws into effect after the propane gas shortage because of the grassroots efforts made by Prism Propane. I want to thank you for your hard work."

State Senators **Randy Gardner** and **Cliff Hite** were present and shared their support for an alternative fueling option for the community. Senator **Gardner** presented **Walton** with a letter of citation recognizing Prism Propane's efforts to make a greener fuel alternative accessible in the area.

**Walton** stated, "We want to provide our local schools, business and municipalities with a cleaner burning fuel alternative that is not only less expensive, but also keeps vehicle maintenance costs down."

Several area school systems have adopted Propane Autogas as a fuel alternative to help reduce issues of rising gas costs and vehicle maintenance, a savings for the school district and its taxpayers. Van Buren, Elmwood, Wood Lane Schools and North Baltimore are just a few of the area school systems who purchase Propane Autogas or have begun to look into the fuel as an alternative to diesel.

Some local agencies also signed up with Prism Propane to convert their fleet vehicles to accept the "greener" fuel. **Jerry Greiner**, President of Northwest Water and Sewer District said the company's choice to switch its fleet vehicles to propane dual-fuel is to help with costs and to keep the communities more environmentally safe. "Not only are we helping our employees who are driving the vehicles by converting to a cleaner burning fuel, but also all of the communities we drive in everyday," said **Greiner**.

**Scott McKeown**, health and safety, maintenance transportation coordinator of Wood Lane schools spoke about his experience with propane-fueled buses. **McKeown** explained that his schools have been using propane-fueled buses for several years and have seen tremendous differences compared to a diesel-fueled bus. He commented on how much quieter the buses are and how much faster they are to warm-up when the temperatures are below freezing.

According to the Propane Education & Research Council (PERC), Propane Autogas burns cleaner than other fuel alternatives, produces fewer undesirable emissions, and lowers preventative maintenance costs compared with diesel. Propane-fueled engines require less oil by volume than diesel, with no need for additional filters or diesel emission fluid. Switching to propane results in an estimated 80-percent reduction in smog-producing hydrocarbon emissions compared with diesel-fueled vehicles.

Propane Autogas infrastructure costs less to install, maintain, and operate than diesel and other fuel alternatives. The costs are low primarily because propane is classified by the Environmental Protection Agency (EPA) as a non-contaminant of air, land, and water resources. Overall savings, especially because of available state grants, offset the price associated with conversion.

Prism Propane Services of Ohio, LLC, was formed in 1998 as a for-profit company and affiliate of the Hancock-Wood Electric Cooperative nonprofit organization, to offer economically priced propane gas services to customers in Allen, Hancock, Hardin, Henry, Putnam, Sandusky, Seneca, Wyandot and Wood counties. For more information about Prism Propane, visit prismpropane.com, the Prism Facebook page or call 877-887-7476.

*The AUTOGAS Propane vehicle fueling station in North Baltimore opened Monday on Business Park Drive South. Six Wood Lane School buses are running on propane. (Photo by Randy Roberts.)*

# Safety News

## OPGA Members Renew/Apply for Next Year's Worker's Comp Programs – Use CareWorksComp

*Reminder about Annual Group Rating Sponsor Training:*

## 2015 Group Rating Annual Safety Training

As a group-experience or group-retrospective rating program sponsor for the January 1, 2015 PEC (public) rating year or July 1, 2015 PA (private) rating year, your organization is required to attend annual training per OAC 4123-17-68.

**NEW THIS YEAR . . . . .**
**the training will be delivered via WEBINAR.**

You may select the webinar date and time most convenient to you:

- **Thursday, November 5, 2015 @ 2 pm**
  Event address for attendees:
  https://ohiobwc.webex.com/ohiobwc/onstage/g.php?MTID=e2a02946254bcd1a97a6e8948a6701ecc
- **Tuesday, November 17, 2015 @ 10 am**
  Event address for attendees: https://ohiobwc.webex.com/ohiobwc/onstage/g.php?MTID=e25a21e2a3e301e5c19aaa95187fd994c

To register, select the 'Event address for attendees' link for the date of your choice. After registering, you'll receive a confirmation email message that contains detailed information about joining the event on your selected date with the option to add the event to your electronic calendar.

The webinar is scheduled to last approximately 90 minutes and will include BWC program updates and pertinent safety information to share with your members.

If you are unable to participate in either of these webinars, an in-person make-up session is scheduled at the Ohio Center for Occupational Safety & Health (OCOSH) in Pickerington on Monday, November 23 @ 10 am.

If you are unable to participate in either of these webinars, an in-person make-up session is scheduled at the Ohio Center for Occupational Safety & Health (OCOSH) in Pickerington on Monday, November 23 @ 10 am.

## Upcoming BWC Deadlines

There are no October BWC deadlines but Ohio businesses will want to keep these upcoming deadlines in mind:

**November 2, 2015** is the due date for the next BWC premium installment for those who kept the bimonthly default payment plan.

**November 18, 2015** is the date we request to have Group Rating documents returned to guarantee being filed in 2016 program.

**January 25, 2016** is the enrollment deadline for group retrospective rating programs.

## Unemployment Cost Control Tip:

Termination for poor work performance can be a challenging issue when communicating the facts to ODJFS. Before dedicating time and effort toward contesting the unemployment claim, try to determine your liability in the claim based on the claimant's length of employment. Most states, including Ohio, have a "base period" charge method and only wages paid to the claimant during their base period can be used in determining an employer's potential claim cost. **The standard base period is the first four of the last five completed calendar quarters prior to the claim application.** Since October marks the beginning of a new quarter, the standard base period is currently July 1, 2014 through June 30, 2015. If you hired someone after July 1, 2015 your account shouldn't be charged in the claim filed this year!

To learn more about understanding your potential unemployment claim cost or discuss any unemployment topic, contact Kammy Staton at (800) 837-3200 ext. 57165 or via e-mail: kammy.staton@careworkscomp.com.

For additional information contact Andrew P. Frank, 614-956-2325, 800-837-3200 ext. 52325, or Andrew.Frank@CareWorksComp.com.

# State Court Jury Determines Propane Marketer Negligent in Cylinder Incident

*by Schlee, Huber, McMullen, McCarthy & Hansen*

A Kentucky state court jury awarded significant compensatory and punitive damages against a propane marketer in a wrongful death case arising out of a propane explosion involving an improperly transported 100 pound cylinder. Among other decisions, the jury determined that the marketer negligently failed to comply with its duty to respond to a customer call to its emergency phone line within 60 minutes and that this failure was a factor in the wrongful death.

### *Underlying Incident.*

The C.A. Garner Veneer plant near Smithville, Kentucky was powered in part with 100 pound propane cylinders used in the curing process for making wood veneer. At one point in May 2008, Garner Veneer ran out of propane and called its propane supplier several times requesting a propane delivery, with some of the calls made to the marketer's emergency number. However, the marketer did not respond to the calls. Garner Veneer's plant manager, **Rick DeBurger**, and assistant manager, **Michael Guse**, decided they could not wait any longer for a propane delivery. The two managers took matters into their own hands and traveled to **DeBurger**'s home to pick up an old 100 pound cylinder to provide propane for the plant operations. The cylinder from **DeBurger**'s home was owned by the same marketer that supplied propane to Garner Veneer.

The two men disconnected the cylinder but then made a key error when they placed the cylinder in a horizontal, rather than vertical position in the back of their pick-up truck. When the men returned to the Garner Veneer plant, they discovered that a "white mist" was leaking from the cylinder. **Guse** took off his shirt and wrapped his hand in the cloth so he could reach in to shut off the cylinder valve. As **Guse** reached in, static electricity from his shirt ignited the leaking propane, severely injuring both **Guse** and **DeBurger**. **Guse** was transported to a local hospital and then airlifted to the University of Louisville Hospital. **Guse** sustained burns to 75% of his body. After six days in the hospital, **Guse** passed away from his burn injuries.

### *Lawsuit.*

**Guse**'s estate filed a wrongful death action in Kentucky's Henry County Circuit Court. Plaintiff's lawsuit included a negligence claim, alleging that the marketer breached its duty to (1) respond to customer needs in times of emergency; (2) warn and properly provide service to its customers; (3) properly train its employees; (4) provide safety literature to its customers regarding the use and transport of 100 pound cylinders; and (5) inspect and replace customers' propane cylinders.

The propane marketer denied the allegations. Specifically, it denied that any emergency calls were placed, arguing that it received a request for propane delivery after hours and it was not an emergency situation. Additionally, it argued that**Guse** was liable for failing to usereasonable care for his own safety, including being under the influence of alcohol at the time of the incident.

The marketer also brought third-party claims against Garner Veneer and co-employee **DeBurger**

*continued on page 10...*

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...continued from page 9

alleging that they were negligent and responsible for **Guse**'s death.

### *Trial.*

At the 2014 trial the plaintiff argued that the marketer was negligent for three primary reasons. First, plaintiff argued that the marketer failed to properly respond to emergency calls and if the marketer had responded to the call, **Guse** and **DeBurger** would not have attempted to transport and use the 100 pound cylinder.

Second, plaintiff argued that the marketer failed to keep records regarding its former customers. Plaintiff alleged that the marketer had a duty to pick up cylinders and tanks that were not filled within one year. Plaintiff argued that **DeBurger**'s 100 pound cylinder was old and outdated and should have been picked up by the marketer prior to the incident. Plaintiff also asserted that the cylinder lacked a collared valve that would have prevented the incident. Plaintiff presented expert testimony on its first two arguments regarding negligence.

Third, plaintiff argued that the propane marketer failed to provide adequate warnings to customers and warning labels for cylinders. To support this argument plaintiff relied on the testimony of a warnings expert, who testified that **DeBurger**'s 100 pound propane cylinder should have had a large warning label stating it should only be transported in an upright, vertical position.

Plaintiff also asserted at trial that punitive damages were warranted because the marketer's alleged multiple failures to act with reasonable care constituted evidence of "reckless disregard" for the safety of its customers. Plaintiff relied on testimony that the marketer violated its own policies and also that it did nothing to change its policies after the incident.

In response, the propane marketer asserted at trial that an emergency call was not placed and would not have made a difference in this case. Additionally, it presented evidence that it provided ample warning materials to Garner Veneer and **DeBurger** regarding dangers associated with propane. It also presented evidence that the subject cylinder had a large warning label citing state law and stating "Do Not Move." Furthermore, the marketer argued that Garner Veneer, **DeBurger** and **Guse** were ultimately responsible for the incident in that (1) Garner Veneer and **DeBurger** had a duty to provide warning information to **Guse** regarding propane and failed to use ordinary care for **Guse**'s safety, and (2) **Guse** failed to use reasonable care for his own safety when handling the propane cylinder.

### *Verdict.*

The jury's decision was mixed. The jury determined that the propane marketer failed to use ordinary care in the operation of its business by failing to respond to emergency calls within 60 minutes. However, the jury decided that the marketer did not breach its duty to keep track of old customers and pick up old tanks and cylinders. The jury found **Guse** and Garner Veneer were also negligent for failing to use reasonable care. The jury's verdict allocated 40% of the fault to the marketer, 25% to the decedent **Guse** and 35% to Garner Veneer. The jury determined plaintiff's total compensatory damages were $3,180,000 which included $1,000,000 for **Guse**'s pain and suffering. The compensatory damages were reduced to $1,272,000 based on the marketer being 40% at fault. But the jury also awarded $3,000,000 in punitive damages against the marketer making the total net verdict against the propane marketer over $4.2 million.

***

The underlying incident, resulting trial and jury verdict reviewed above underscores the need for propane marketers to be vigilant with respect to risk management efforts, including following company policies and procedures in every respect. An apt risk management quote comes to mind: "A good rule of thumb is to assume that everything matters."

--**Richard Thaler**

*[Kathryn A. ("Katy") Regier is a shareholder in the law firm of Schlee, Huber, McMullen, McCarthy & Hansen, P.C., in Kansas City, Missouri. Her email address is: kregier@schleehuber.com.]*

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# COMMON CONNECTIONS

*submitted by Bob Herron*

***What do Jesse Owens, Woody Hayes, Thomas Edison, Brutus Buckeye, Zanesville, and Propane all have in Common?***

**Jesse Owens** was a member of the Olympics and has a statue at Ohio State, **Woody Hayes** was a great coach and also has a statue at Ohio State, **Thomas Edison** was a great inventor, but his statue is not at Ohio State, but instead will be in Washington DC, Brutus Buckeye is the greatest mascot and will have his statue at Ohio State. But how do they all tie in with Zanesville and Propane?

Artist **Alan Cottrill** has sculpted all of these and many more. If you are in Zanesville, his Gallery is located at 110 S. Sixth Street; you will know that you are at the right location when you see all of the sculptures aligning the sidewalk. This is the world's largest bronze sculpture exhibition of any living sculptor's work. Every piece is represented, from first sculpted head and the smallest maquettes to larger than life-size figures- with photos and narratives of **Alan**'s largest monumental figures. For more information on Alan's Studio, visit www.alancottrill.com. Gallery hours, M-F 9am-5pm, Saturday, Sunday, call first, 740-453-9822.

But wait, how does all of this tie into Propane? Alan also co-owns with his life-long friend, **Charles Leasure**, Coopermill Bronze-works. This is where 100's of Alan's works are casted and the foundry furnaces are fueled by Propane supplied by The Energy Cooperative.

So if you want to cast a bronze and you want it to last, do it with Propane.

# BLUEGRASS 'N BARBEQUE

## 2015 OPGA Summer Meeting

**Hilton Easton Columbus • July 31-August 2, 2015**

## OPGA Scholarship Recipient!

***Craig Wood*** *of O E Meyer (right) presenting a $1,000 scholarship to* ***Jonathan Frederick****.*

Since 1999 the Ohio Propane Gas Association has given $66,000 in scholarships to deserving students, who are employee family members of our Association. This year applications were submitted and reviewed by our three judges, OPGA past presidents: **Van Wright, Jim Silverwood** and **Ray Anielski**.

Our scholarship recipient this year was **Jonathan Frederick** with **Craig Wood** from O.E. Meyer presenting. Jonathan will be attending Bowling Green State University this fall, majoring in Exercise Science with a minor in Coaching. Jonathan's father is a Homecare Division Manager and has been with O.E. Meyer for 8 years. We congratulate this year's recipient for his outstanding accomplishments and wish him much success during his college years!

## Thanks to Our Convention Sponsors

### Friday Entertainment

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Tank Truck Service & Sales

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**Color ads will be placed at no extra charge!**

**Contact Hannah Zacharias at 614-228-4733**
**or by email at Hannah@AssnOffices.com**


## OPGA Events Calendar

**2015**
**Nov. 4**

**DON'T FORGET TO VOTE!**

**OPGA Quarterly Member/ Business Meeting**
*Holiday Inn, Worthington, Ohio*

9:30am-11:30am – **Full Board Meeting**
*Location:* John Snow Room

11:00am – **Registration Opens**

11:30am-12:30pm – **Committee Meetings**
*Location:* Griswold Room

12:30pm-1:30pm – **Lunch**
*Location:* Griswold Room

1:30pm-3:30pm – **Membership/Business Meeting**
*Location:* Griswold Room

## Fact Sheets About Appliances

PERC has some fact sheets on appliances and a comparison guide on high efficiency propane furnaces vs. ground source heat pumps. Find these at www.buildwithpropane.com.

## Senator Chris Widener Golf Event

*Enjoying the July 7 Senator Chris Widener Golf Event at Windy Knoll Golf Course in Springfield, Ohio were (left to right):* ***Eric Sears*** *of Auxier Gas,* ***Dave Wedderburn*** *of Collett Propane, Senator* ***Chris Widener****, and* ***Brian*** *and* ***Chris Buschur*** *of McMahan's Bottle Gas.*

Many thanks to **Rosie Buschur** of McMahan's Bottle Gas for organizing the OPGA Scholarship Silent Auction during the Summer Meeting! Her effort, and those who contributed and purchased items, added $5,985 to the Scholarship Fund!

## www.propanesafety.com

***This site is dedicated to workforce safety and regulatory compliance for the propane industry.***