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PUCO

Case No. 08-1344-GA-EXM

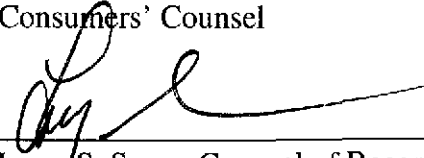
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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Respectfully submitted,

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Consumers' Counsel

A handwritten signature in black ink, appearing to read 'Larry S. Sauer', is written over a horizontal line.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbia Gas of Ohio, Inc., for Approval)	
of a General Exemption of Certain Natural)	
Gas Commodity Sales Services or)	
Ancillary Services from Chapters 4905,)	Case No. 08-1344-GA-EXM
4909, and 4935 except Sections 4905.10,)	
4935.01, and 4935.03, and from specified)	
sections of Chapter 4933 of the Revised)	
Code.)	

MEMORANDUM IN SUPPORT

For the reasons explained below, OCC seeks the opportunity to present rebuttal testimony for the Commission's consideration in resolving the important issues for Ohio customers that they use for home heating and other important purposes. In presenting this testimony, OCC would comply with the expectation in Ohio Adm. Code 4901-1-29(A)(2) for filing and serving rebuttal testimony.

As background, on January 30, 2009, Columbia filed an Application for approval of a general exemption of certain natural gas commodity sales services or ancillary services.¹ Attached to that Application was a Program Outline ("Program Outline"), which explained how Columbia planned to implement a Standard Service Order ("SSO") and Standard Choice Offer ("SCO") Auction processes.

¹ *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 08-1344-GA-EXM, Application (January 30, 2009).

In August of 2009, the parties to the proceeding reached an agreement to settle the issues in the case. Consequently, the parties filed a Joint Stipulation and Recommendation (“Stipulation”) which recommended approval of Columbia’s Application on October 7, 2009. The Commission approved the Stipulation on December 2, 2009, by Opinion and Order (“Opinion and Order”).²

According to the Stipulation, Columbia would conduct two SSO wholesale auctions in order to implement two consecutive, one-year long, SSO periods, starting in April 2010, and April 2011.³ In addition, Columbia was to conduct a third auction for the annual period beginning 2012.⁴ This third auction was to be a Standard Choice Offer retail auction.⁵

However, the Stipulation and Opinion and Order approving the Stipulation specifically stated:

Prior to the SCO auction date, any party may petition the Commission to suspend the SCO auction in favor of another SSO auction. In the event a party files an objection to an SCO auction, the parties supporting the SCO auction agree to present evidence intended to demonstrate the anticipated benefits from an SCO auction.⁶ (Emphasis added).

On April 15, 2011, Columbia filed a Revised Program Outline (“Revised Outline”) reflecting changes “necessary to implement the initial SCO auction in February, 2012.”⁷

² See Opinion and Order, generally.

³ Opinion and Order at 7.

⁴ *Id.* at 8.

⁵ *Id.*

⁶ *Id.* at 9.

⁷ Revised Outline at 1.

On June 1, 2011, the Commission issued an Entry that established the following procedural schedule:

- (a) June 23, 2011 - Deadline for Columbia, intervenors, and Staff to file testimony.
- (b) June 29, 2011 - The evidentiary hearing shall Commence ***.
- (c) In lieu of briefs, at the conclusion of the evidentiary hearing, each party will have an opportunity to make a closing statement.

On June 9, 2011, OCC filed an Application for Rehearing seeking inter alia additional time for filing testimony, and a briefing schedule. On June 15, 2011, the Commission issued an Entry on Rehearing that granted in part and denied in part OCC's Application for Rehearing. The Commission stated:

Therefore, the Commission finds that, with regard to the filing of testimony and the hearing date, OCC's motion for rehearing should be granted, in part, and the procedural schedule would be revised, as follows:

- (a) July 8, 2011 - Deadline to file testimony.
- (b) July 14, 2011 - The evidentiary hearing shall commence ***.

With regard to OCC's request for briefs, rather than closing statements, the Commission finds that OCC failed to set forth any justification in support of its preference for briefs in this case; therefore, OCC's request should be denied.

On July 8, 2011, the Company,⁸ Staff,⁹ OGMG¹⁰ and OCC¹¹ filed testimony. The positions taken by the Columbia, OGMG and OCC witnesses for the most part espoused positions that the parties have previously taken. However, a review of the submitted

⁸ Prepared Direct Testimony of Daniel A. Creekmur (July 8, 2011).

⁹ Prepared Testimony of Stephen A. Puican (July 8, 2011).

¹⁰ Direct Prepared Testimony of Vince Parisi and Richard C. Cahaan (July 8, 2011).

¹¹ Direct Testimony of Bruce M. Hayes and Gregory Slone (July 8, 2011).

testimony of Staff witness Puican indicated that Mr. Puican conducted an analysis of the benefits of an SCO retail auction relative to an SSO wholesale auction that before July 8, 2011 had not been seen. OCC also notes that the analysis contained in Mr. Puican's testimony has not previously been presented to OCC -- or to OCC's knowledge any other interested party. Therefore, OCC could not, with reasonable diligence, have filed and served such testimony within the time limits established by the commission or the presiding hearing officer, addressing the issues Mr. Puican raises in Direct Testimony filed on July 8, 2011.

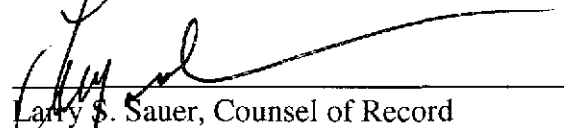
Given the short time between filing testimony (July 8, 2011) and the scheduled hearing date (July 14, 2011), it is necessary to address Mr. Puican's analysis through rebuttal testimony. Moreover, by pre-filing responsive rebuttal testimony will afford the other parties an opportunity to digest the rebuttal position rather than having to hear the testimony for the first time at the evidentiary hearing, which conforms to the PUCO's rule in Ohio Adm. Code 4901-1-29(A)(2). In addition, the presentation of such testimony will not unduly delay the proceeding or unjustly prejudice any other party.

OCC requests an expedited ruling on this Motion, pursuant to Ohio Adm. Code 4901-1-12(C). OCC is in a position to certify that no party who has filed testimony in this case objects to an expedited ruling, under Ohio Adm. Code 4901-1-12(C).

OCC's motion should be granted.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
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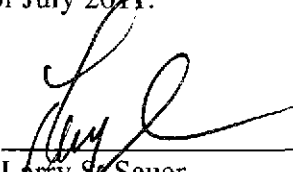
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to File Rebuttal Testimony by the Office of the Ohio Consumers' Counsel was served by electronic mail to the persons listed below, on this 13th day of July 2011.



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