

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

41
RECEIVED-BOOKETING DIV
2012 FEB 27 PM 4:10
PUCO

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Authority) Case No. 08-606-GA-AAM
to Defer Environmental Investigation and)
Remediation Costs)

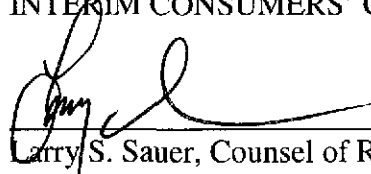
MOTION TO COMPEL DISCOVERY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers of Columbia Gas of Ohio, Inc. ("Columbia" or "the Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "the Commission") to compel the Company to respond to OCC's request for the production of documents and to provide complete and timely responses to OCC's discovery interrogatories.¹ This case relates to Columbia's request to defer costs--which it likely will later seek to collect from customers--pertaining to its environmental investigation and remediation for now-abandoned manufactured gas plant ("MGP") sites that were used many years ago in Ohio. The reasons supporting this Motion, along with an explanation of the need to resolve these matters in a timely fashion, are set forth in the attached Memorandum in Support.

¹ Ohio Adm. Code 4901-1-12 and 4901-1-23.

This is to certify that the foregoing application is a true and accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician AM Date Processed 2/27/12

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL



Larry S. Sauer, Counsel of Record
Joseph P. Serio
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Sauer (614) 466-1312

Serio (614) 466-9565

sauer@occ.state.oh.us

serio@occ.state.oh.us

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Authority) Case No. 08-606-GA-AAM
to Defer Environmental Investigation and)
Remediation Costs)

1

December 12, 2011, OCC filed Comments on Columbia's 2011 Deferral Report. In those comments the OCC raised a number of issues including a challenge to the proposed deferral of Toledo site remediation costs. OCC raised a challenge to the proposed deferral because that deferral request is inconsistent with the Company's 2008 Application that was approved by the PUCO.⁴ In this case, the Company has asked the Commission for authority to include costs incurred outside the reporting period,⁵ and include costs for a site sold during the reporting period without accounting for a possible gain from the sale.⁶ On January 5, 2012, the Staff filed objections to certain aspects of the 2011 Deferral Report.

On December 29, 2011, OCC served its First Set of Discovery on Columbia. Columbia has refused to respond to the OCC discovery. The response to OCC's discovery was due January 23, 2012. On February 1, 2012, Columbia confirmed that the Company would not be responding to OCC's First Set of Discovery.⁷

On December 30, 2011, Columbia filed Reply Comments to the OCC Comments in which Columbia relied upon facts that were not previously included in prior Company filings. For example, Columbia stated that it had received Clean Ohio Revitalization Grants ("CORF") that resulted in savings for customers.⁸ In addition, Columbia claimed that it realized a net loss on the Toledo MGP site.⁹ Finally Columbia claimed that any dollars received as contribution to the remediation (such as CORF Grants) have been and

⁴ OCC Comments at 6-7.

⁵ OCC Comments at 7-8.

⁶ OCC Comments at 8-12.

⁷ See Affidavit of Larry S. Sauer.

⁸ Columbia Reply Comments at 3.

⁹ Columbia Reply Comments at 4.

will continue to be netted against the environmental costs.¹⁰ Yet there are no supporting documents to these claims filed by the Company in this case. Without answers to OCC's discovery, OCC is *denied* access to information that is relevant to the costs that Columbia is asking to defer, that residential customers may someday be asked to pay, that could be used by OCC to challenge the Company's right to defer certain environmental remediation costs.

On February 9, 2012, Columbia filed a Supplement to the Annual Deferral Report ("Supplement") in which the Company accepted the PUCO Staff's recommendation and reclassified the Toledo MGP site investigation and environmental expenses as a capitalized expenditure. The Staff's recommendation was consistent with OCC's December 12, 2011 Comments which had made the same recommendation regarding the Toledo MGP site costs.¹¹

II. ARGUMENT

Ohio Adm. Code 4901-1-23 provides parties conducting discovery with the means -- "mov[ing] for an order compelling discovery" -- to gain Commission enforcement of their right to obtain answers to discovery requests. Ohio Adm. Code 4901-1-23(A)(1)-(4) sets forth the failures to respond to discovery that give rise to the filing of a Motion to Compel. Columbia has contributed to these failures by not answering OCC's discovery.

The basis for OCC's Motion, under Ohio Adm. Code 4901-1-23(C)(1)(a), includes that OCC's right to discovery is assured by law, rule and Supreme Court

¹⁰ Columbia Reply Comments at 5.

¹¹ OCC Comments at 6-7 (December 21, 2011).

precedent. OCC is entitled to timely and complete responses to its discovery inquiries. R.C. 4903.082 provides that “[a]ll parties and intervenors shall be granted ample rights of discovery.”

Discovery is important in this case where Columbia has sought authority to defer certain costs which are beyond the scope of the application and outside of the timeframe of the deferral reporting period. Furthermore, OCC has raised concerns that, in circumstances where the sites have been sold, the Commission should offset any deferral of costs by the gain from the sale of that MGP site. Such an offset would be fair to the customers from whom Columbia likely will seek to collect its MGP costs, not that the PUCO should authorize such collections from customers.

In another case OCC attempted, through discovery, to ascertain the existence and nature of side deals that were supporting a Cincinnati Gas and Electric Company Stipulation.¹² The PUCO unreasonably denied OCC the right to discovery, including the denial of an OCC motion to compel, and the Supreme Court of Ohio found that the Commission erred in its decision.¹³ The Court based its decision in part on its reliance on R.C. 4903.082 stating: “[a]ll parties and intervenors shall be granted ample rights of discovery.”¹⁴ In addition, the Court recognized the role that the Commission’s rules play in discovery matters by stating: “[t]he present rules of the public utilities commission

¹² *In the Matter of the Application of The Cincinnati Gas and Electric Company To Modify its Non-Residential Rates to Provide for Market-Based Standard Service Offer Pricing*, Case No. 03-93-GA-ATA, et al.

¹³ *Ohio Consumers’ Counsel v. Public Util. Comm.*, 111 Ohio St.3d 300, 2006-Ohio-5789, ¶83 (2006). “The text of Ohio Adm. Code 4901-1-16(B), the commission’s discovery rule, is similar to Civ.R. 26(B)(1), which governs the scope of discovery in civil cases. Civ.R. 26(B) has been liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding. *Moskovitz v. Mt. Sinai Med. Ctr.* (1994), 69 Ohio St.3d 638, 661, 635 N.E.2d 331 (“The purpose of Civ.R. 26 is to provide a party with the right to discover all relevant matters, not privileged, that are pertinent to the subject of the pending proceeding”).

¹⁴ *Id.* at ¶82.

should be reviewed regularly by the commission to aid full and reasonable discovery by all parties. Without limiting the commission's discretion the Rules of Civil Procedure should be used wherever practicable."¹⁵ Therefore, the Commission should grant the OCC's Motion to Compel in this proceeding.

The OCC is entitled to discovery within the scope provided by the Commission's rules: "[A]ny party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceeding."¹⁶ Columbia has challenged OCC's right to seek discovery, and has refused to provide information responsive to OCC's discovery inquiries.¹⁷ Columbia has not moved for a protective order pursuant to Ohio Adm. Code 4901-1-24, and its refusal to respond to OCC's requests is inappropriate and an impediment to a complete and timely resolution of this case.

Moreover, parties in PUCO cases should be able to present to the Commission recommendations that are informed by the discovery process contemplated by law, rule and Court precedent. Information is key for Commission decision-making, as the Commission stated last week in a decision in an electric case. The Commission stated:

In the Opinion and Order, the Commission recognized that these rate impacts may be significant, based upon evidence indicating that total bill impacts may, in some cases, approach 30 percent. However, the evidence in the record inadvertently failed to present a full and accurate portrayal of the actual bill impacts to be felt by customers, particularly with respect to low load factor customers who have low usage but high demand.¹⁸

¹⁵ Id. at ¶82.

¹⁶ Ohio Adm. Code 4901-1-16.

¹⁷ See Affidavit of Larry S. Sauer attached hereto as Exhibit 1.

¹⁸ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al, Entry on Rehearing at 11 (February 23, 2012).

To assure the Commission has a full and accurate portrayal of the issues presented in a particular case, the Commission should assure that all parties and intervenors are granted ample rights of discovery.

Furthermore, the information OCC seeks is “relevant” to the case, per Ohio Adm. Code 4901-1-23(C)(1)(b). The First Set of Discovery, (attached hereto as Exhibit A) to which OCC seeks responses, is relevant, pertinent to the subject of the pending proceedings, and in fact is directly-on-point with the issues in this case that relate to the Company’s request to defer environmental investigation and remediation costs associated with MGP sites in Ohio. In this regard, the relevant information sought by OCC is critical to:

- Establish the circumstances surrounding the sale of the Marion, Ohio site (i.e. identification of buyer, buyer’s affiliation to Columbia, proceeds from the sale, accounting for the proceeds) (OCC Interrogatory Nos. 1-18 and associated requests to produce.);
- Establish the circumstances surrounding the sale of the Toledo site (i.e. identification of buyer, buyer’s affiliation to Columbia, proceeds from the sale, accounting for the proceeds) (OCC Interrogatory Nos. 19 - 33 and associated requests to produce.);
- Establish the identity of other parties that contributed to the necessity of the environmental cleanup due to discharge into the Swan Creek site, and the extent to which other parties are contributing to the remediation costs (OCC Interrogatory Nos. 34 - 38 and associated requests to produce.); and
- Establish the circumstances surrounding the sale of the Goodale (Columbus, Ohio) site (i.e. identification of buyer, buyer’s affiliation to Columbia, proceeds from the sale, accounting for the proceeds) (OCC Interrogatory Nos. 38 - 49 and associated requests to produce.).

All of the above factual issues are relevant to the issues in this case and to informed Commission decision-making.

In a recent Columbia case involving its Capital Expenditure Program (“CEP”), OCC intervened and served discovery. Columbia moved to stay the discovery, arguing discovery to be improper and premature given that the Commission had not yet determined the nature or scope of any future proceedings in the matter.¹⁹ However, the Attorney Examiner denied Columbia’s Motion in that case and ordered the utility to answer OCC’s discovery, by Entry stating:

Upon consideration of Columbia’s motion to stay discovery, the attorney examiner finds that, although the Commission will determine what further process may be necessary following the receipt of the comments and reply comments, **the parties should be permitted to continue the discovery process. Section 4903.082, Revised Code, requires the Commission to ensure ample rights of discovery, while Rule 4901-1-17(A), O.A.C, generally provides that discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible. * * * Columbia should provide full responses to OCC’s discovery requests and provide copies of all documents requested by OCC.**²⁰

In cases where the Commission has not formally determined what process may be necessary, the Company should not be allowed to use such uncertainty to obstruct party’s discovery efforts.

In this case, the Commission established an expedited time frame for the Staff to object to Columbia’s deferral request (thirty-days). The Commission should be cognizant of OCC’s participation, and the importance that the discovery process plays in that participation. But the expedited procedural time line should not be an opportunity for the Company to obstruct OCC’s discovery efforts. The Staff objected within the thirty-days

¹⁹ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Columbia Motion to Stay Discovery at 3 (December 19, 2012).

²⁰ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Entry at 3-4 (January 27, 2012). (Emphasis added).

and the Company filed a Supplemental Deferral Report thereby opening up the possibility that further process may be necessary. However, discovery responses -- which were due prior to the Company's Supplement filing -- are necessary to enable OCC (and potentially the Staff) to be able to better comment on Columbia's Supplement filing. Therefore, because there is an increased likelihood that there could be further input to be heard from parties in this case, especially after discovery is completed, the Commission should grant OCC's Motion to Compel.

The Commission should recognize OCC's rights to discovery, pursuant to R.C. 4903.082, PUCO rule, and the PUCO's recent decision in the Columbia Capital Expenditure Program case, and grant OCC's Motion to Compel. An affidavit describing OCC's contact with counsel for Columbia seeking responses to OCC's discovery and demonstrating that OCC has exhausted reasonable efforts to resolve the dispute is attached, per Ohio Adm. Code 4901-1-23(C)(3).²¹ The Commission should order Columbia to provide an immediate response to OCC's pending discovery requests.

III. CONCLUSION

Columbia's refusal to provide responses to OCC's discovery is in violation of law, rule and Supreme Court precedent. As the Ohio Supreme Court has decided, the Commission's discovery rule is similar to Civ.R. 26(B)(1), which governs the scope of discovery in civil cases. Therefore, the Commission's discovery rule should be liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding. OCC should have before it the information needed to

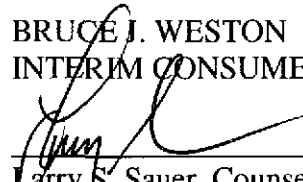
²¹ Affidavit of Larry S. Sauer attached hereto as Exhibit 1.

analyze the relevant issues in this case and that is needed for advocating to the Commission with relevant information for considering fairness to consumers.

OCC's Motion to Compel should be granted and Columbia should be ordered to provide discovery responses to OCC *post haste*.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL



Larry S. Sauer, Counsel of Record
Joseph P. Serio
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

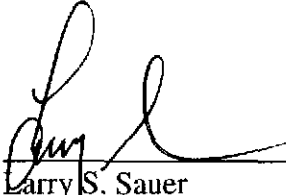
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: Sauer (614) 466-1312
Serio (614) 466-9565

sauer@occ.state.oh.us

serio@occ.state.oh.us

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Motion To Compel Discovery by the Office of the Ohio Consumers' Counsel*, was served via regular U.S. Mail, postage prepaid upon the parties of record identified below on this 27th day of February, 2012.


Larry S. Sauer
Assistant Consumers' Counsel

SERVICE

William Wright
Steven Beeler
Attorney General's Office
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215
william.wright@puc.state.oh.us

Stephen B. Seiple
Assistant General Counsel
Brooke E. Leslie, Counsel
Columbia Gas of Ohio, Inc.
200 Civic Center Drive, P.O. Box 117
Columbus, OH 43216-0117
sseiple@nisource.com
bleslie@nisource.com

As part of each response, please indicate the names of the respondent and his/her position with the Company or affiliate. Please provide written responses even if no documents or data are available. Please identify the responses to the specific numbered request.

Should the applicant determine that certain requests and/or interrogatories are objectionable, please so indicate and respond to the remaining requests. Thank you in advance for your cooperation. If any questions arise, please contact:

Larry S. Sauer
Joseph P. Serio
Assistant Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574
sauer@occ.state.oh.us
serio@occ.state.oh.us

DEFINITIONS

As used herein the following definitions apply:

1. “Document” or “Documentation” when used herein, is used in its customary broad sense, and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of

any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. "Communication" shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or

logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.

3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” or “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. “You,” and “Your,” or “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.
8. “Person” includes any firm, corporation, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” or “the identity of,” or “identified” means as follows:
 - A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;

- B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;
 - D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;
 - E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
 - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (for example: a room number, file cabinet, and/or file designation).
10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working in the Public Utilities Section of the Ohio Attorney General's Office), and offices.

11. The term "e.g." connotes illustration by example, not limitation.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged which is in your possession or control, or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization(s) is requested to produce responsive materials and information within its physical control or custody, as well as that physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files; and
 - D. such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in Mcf may be provided in Ccf or Dth as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2010 through and including the date of your response.
9. Responses must be complete when made, and must be supplemented with subsequently acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (i.e., provide a privilege log). Respondent to the discovery must a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, b) identify all persons to whom the information has already been revealed, and c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

INTERROGATORIES

1. As noted in Attachment 1 to the 2011 Deferral Report, the Remediation – Marion Ohio site was sold to the Columbia Remainder Corporation, who is the Columbia Remainder Corporation?

RESPONSE:

2. Is there any relationship -- affiliate or otherwise -- between the Columbia Remainder Corporation and Columbia?

RESPONSE:

3. If the Company's response to OCC Interrogatory No. 2 is affirmative, please explain the relationship.

RESPONSE:

4. How much did Columbia Remainder Corporation pay for the Remediation – Marion Ohio site?

RESPONSE:

5. What does Columbia estimate the fair market value of the Remediation – Marion Ohio site as of December 31, 2011?

RESPONSE:

6. What does Columbia estimate the fair market value of the Remediation – Marion Ohio site as of the date the investigation and remediation projects are completed?

RESPONSE:

7. Referring to the response to OCC Interrogatory No. 6, what is the basis of Columbia's fair market value estimate for the Marion Ohio remediation site?

RESPONSE:

8. What value did Columbia carry for the Remediation – Marion Ohio site on its books, as of the date of the sale to Columbia Remainder Corporation?

RESPONSE:

9. What plans is Columbia aware of for the Remediation – Marion Ohio site after the environmental investigation and remediation is completed?

RESPONSE:

10. Does Columbia believe that environmental investigation and remediation must be completed before Columbia Remainder Corporation could sell the Marion Ohio site to a third party?

RESPONSE:

11. If the response to OCC Interrogatory No. 9 is affirmative, please explain the basis for Columbia's belief?

RESPONSE:

12. If the Company's response to OCC Interrogatory No. 9 is negative, please explain why not?

RESPONSE:

13. What does Columbia estimate the future environmental investigation and remediation costs to be for the Remediation – Marion Ohio site?

RESPONSE:

14. Referring to the response to OCC Interrogatory No. 13, what is the basis of Columbia's estimate of future environmental investigation and remediation costs to be for the Remediation – Marion Ohio site?

RESPONSE:

15. In the event the Remediation – Marion Ohio site is sold in the future, how will Columbia Remainder Corporation account for the proceeds from a sale of the Remediation – Marion Ohio site?

RESPONSE:

16. In the event the Remediation – Marion Ohio site is sold, would Columbia receive any of the proceeds from a subsequent sale by the Columbia Remainder Corporation?

RESPONSE:

17. If the Company's response to OCC Interrogatory No. 16 is affirmative, how will Columbia account for the proceeds from the sale?

RESPONSE:

18. To the extent that there is a net capital gain from the sale of the Remediation – Marion Ohio site and Columbia receives some/all the proceeds from the sale, then will Columbia apply the proceeds from the sale to off set the costs to remediate the site up to the level of the net capital gain?

RESPONSE:

19. As noted in Attachment 5 to the 2011 Deferral Report, Columbia sold the Toledo Land and Structure – Manufactured Gas Plant site, what was the sale price?

RESPONSE:

20. How did Columbia account for the proceeds from the sale of the Toledo Land and Structure – Manufactured Gas Plant site?

RESPONSE:

21. What does Columbia estimate the fair market value of the Toledo Land and Structure – Manufactured Gas Plant site to be as of December 31, 2011?

RESPONSE:

22. Referring to the response to OCC Interrogatory No. 21, what is the basis for Columbia's estimate of the fair market value of the Toledo Land and Structure – Manufactured Gas Plant site?

RESPONSE:

23. What does Columbia estimate the fair market value of the Toledo Land and Structure – Manufactured Gas Plant site as of the date the environmental investigation and remediation projects are completed?

RESPONSE:

24. Referring to the response to OCC Interrogatory No. 23, what is the basis for Columbia's future estimate of the fair market value of the Toledo Land and Structure – Manufactured Gas Plant site?

RESPONSE:

25. What value did Columbia carry the Toledo Land and Structure – Manufactured Gas Plant site on its books as of the date of sale?

RESPONSE:

26. What plans currently exist for the Toledo Land and Structure – Manufactured Gas Plant site after the environmental investigation and remediation is completed?

RESPONSE:

27. Does Columbia believe that environmental investigation and remediation must be completed before the Toledo Land and Structure – Manufactured Gas Plant site could be sold to a third party?

RESPONSE:

28. If the response to OCC Interrogatory No. 27 is affirmative, please explain the basis for Columbia's belief?

RESPONSE:

29. If the Company's response to OCC Interrogatory No. 27 is negative, please explain why not?

RESPONSE:

30. What does Columbia estimate the future environmental investigation and remediation costs to be for the Toledo Land and Structure – Manufactured Gas Plant site?

RESPONSE:

31. Referring to the Company's response to OCC Interrogatory No. 23, what is the basis for Columbia's future estimate of the future environmental investigation and remediation costs for the Toledo Land and Structure – Manufactured Gas Plant site?

RESPONSE:

32. If there was a net capital gain from the sale of the Toledo Land and Structure – Manufactured Gas Plant site, then will Columbia apply the proceeds from the sale to off set the costs to remediate the site up to the level of the net capital gain?

RESPONSE:

33. If the Company's response to OCC Interrogatory No. 32 is negative, please explain why Columbia will not apply the proceeds from the sale to off set the costs to remediate the site up to the level of the net capital gain?

RESPONSE:

34. As noted in Attachment 7 to the 2011 Deferral Report, Columbia states: “There is a documented history of multiple parties discharging to the creek.” Please identify the other multiple parties?

RESPONSE:

35. Are the other parties also contributing to the environmental investigation and remediation costs?

RESPONSE:

36. If the Company’s response to OCC Interrogatory No. 35 is affirmative, how much have the other parties contributed, by year, by amount of annual contribution(s), and in total?

RESPONSE:

37. If the Company’s response to OCC Interrogatory No. 35 is negative, please explain why the other parties have not contributed to the environmental investigation and remediation costs?

RESPONSE:

38. As noted in Attachment 13 to the 2011 Deferral Report, Columbia to date, has spent \$475,000 on investigation and remediation of the Goodale site, when was this site sold?

RESPONSE:

39. To whom did Columbia sell the Goodale site?

RESPONSE:

40. What was the sale price of the Goodale site?

RESPONSE:

41. How did Columbia account for the proceeds from the sale of the Goodale site?

RESPONSE:

42. What does Columbia estimate the fair market value of the Goodale site as of the date the property was sold?

RESPONSE:

43. Referring to the response to OCC Interrogatory No. 42, what is the basis for Columbia's estimate of the fair market value of the Goodale site?

RESPONSE:

44. What does Columbia estimate the fair market value of the Goodale site as of the date the environmental investigation and remediation projects are completed?

RESPONSE:

45. What value did Columbia carry the Goodale site on its books as of the date of the sale?

RESPONSE:

46. What does Columbia estimate the future environmental investigation and remediation costs to be for the Goodale site?

RESPONSE:

47. Referring to the response to OCC Interrogatory No. 46, what is the basis for Columbia's estimate of the future environmental investigation and remediation costs to be for the Goodale site?

RESPONSE:

48. If there was a net capital gain from the sale of the Goodale site, then will Columbia apply the proceeds from the sale to off set the costs to remediate the site?

RESPONSE:

49. If the response to OCC Interrogatory No. 48, is negative, please explain why Columbia will not apply the proceeds from the sale to off set the costs to remediate the site?

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please provide the interactive computer files, with formulas intact, for all Schedules contained in the Pre-Filing Notice in Microsoft Excel for Windows format (Please provide an update to this request when the Application is filed).
2. Please provide Staff Data Requests (formal and informal) and the Company's responses thereto as they become available.
3. Please provide data requests in these proceedings sent by other intervenors and the Company's responses thereto as they become available.
4. Please provide all workpapers, spreadsheets and other documents that support the accounting for the sale of the Remediation – Marion Ohio site to Columbia Remainder Corporation.
5. Please provide all workpapers, spreadsheets and other documents that support the accounting for the proceeds from the sale of the Toledo Land and Structure – Manufactured Gas Plant site.
6. Please provide all workpapers, spreadsheets and other documents that support the accounting for the proceeds from the sale of the Toledo Land and Structure – Manufactured Gas Plant site.

7. Please provide all workpapers, spreadsheets and other documents that support the accounting for the proceeds from the sale of the Goodale site?

CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Office of the Ohio Consumers' Counsel's Interrogatories and Requests for Production of Documents Propounded Upon Columbia Gas of Ohio, Inc. First Set* was served by first class mail, postage prepaid, (also electronic transmission upon Columbia Gas of Ohio, Inc.) on the parties identified below this 29th day of December, 2011.


Larry S. Sauer
Assistant Consumers' Counsel

SERVICE

Steven Beeler
Attorney General's Office
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, OH 43215
Steven.beeler@puc.state.oh.us

Stephen B. Seiple
Assistant General Counsel
Brooke E. Leslie, Counsel
Columbia Gas of Ohio, Inc.
200 Civic Center Drive, P.O. Box 117
Columbus, OH 43216-0117
sseiple@nisource.com
bleslie@nisource.com

Peter Baker
Public Utilities Commission Staff
180 East Broad Street, 7th Fl.
Columbus, OH 43215
Peter.baker@puc.state.oh.us

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Authority) Case No. 08-606-GA-AAM
to Defer Environmental Investigation and)
Remediation Costs)

AFFIDAVIT OF LARRY S. SAUER

State of Ohio :
County of Franklin : S.S.

I, Larry S. Sauer, Assistant Consumers' Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), being first duly sworn, depose and say:

1. This affidavit addresses the OCC's efforts to obtain responses to OCC's First Set of Discovery propounded upon Columbia on December 29, 2011, in this proceeding.
2. On or about December 22, 2009, OCC filed with the Commission its Motion to Intervene.
3. On February 1, 2012, I sent Steve Seiple, attorney representing Columbia, an e-mail to inquire about the past due discovery responses (See Attachment A).
4. On February 1, 2012, Mr. Seiple responded:

“Columbia did not respond to the data requests, because the matter was concluded before the data request responses were due. As you are aware, once Columbia filed its report, the PUCO is deemed to have approved the deferrals unless the Staff objects within 30 days of the filing. The 30-deadline expired January 6, 2012. On January 5, 2012, Staff did object to one of the proposed deferrals, but not the others. Because Staff did object to the one deferral, that deferral is not deemed to have been approved and Columbia has not recorded that deferral. However, the remaining deferrals were deemed

approved on January 6, 2012 and Columbia has recorded those deferrals. Thus, this matter concluded January 6, 2012 and any data requests due after that date are moot.” (See Attachment A)

5. It is therefore demonstrated that Columbia has no intention of responding to OCC’s First Set of Discovery propounded upon Columbia on December 29, 2011, and OCC has exhausted all reasonable efforts to resolve this dispute.

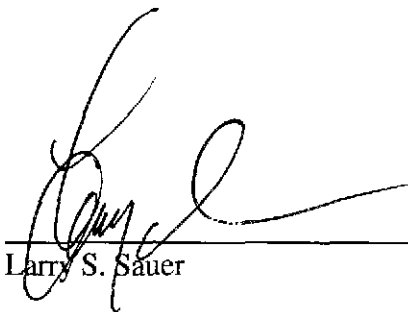
STATE OF OHIO

COUNTY OF FRANKLIN

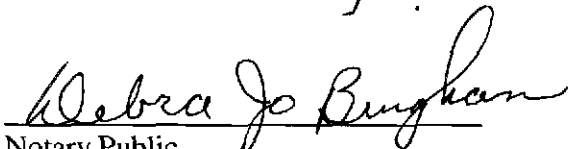
The undersigned, being of lawful age and duly sworn on oath, hereby certifies, deposes and states the following:

I have caused to be prepared the attached written affidavit for OCC in the above referenced docket. This affidavit is true and correct to the best of my knowledge, information, and belief.

Further Affiant sayeth not.


Larry S. Sauer

Sworn before me and subscribed in my presence this 27 day of February, 2012.


Notary Public
State of Ohio



Debra Jo Bingham Notary Public
Union County, State of Ohio
My Commission Expires June 13, 2015

From: <sseiple@nisource.com>
To: "LARRY SAUER" <SAUER@occ.state.oh.us>
CC: <bleslie@nisource.com>, "JOE SERIO"
<SERIO@occ.state.oh.us>
Date: 2/1/2012 12:13 PM
Subject: Columbia Environmental Deferrals, Case No. 08-606-GA-AAM

Larry,

Columbia did not respond to the data requests, because the matter was concluded before the data request responses were due. As you are aware, once Columbia filed its report, the PUCO is deemed to have approved the deferrals unless the Staff objects within 30 days of the filing. The 30-deadline expired January 6, 2012. On January 5, 2012, Staff did object to one of the proposed deferrals, but not the others. Because Staff did object to the one deferral, that deferral is not deemed to have been approved and Columbia has not recorded that deferral. However, the remaining deferrals were deemed approved on January 6, 2012 and Columbia has recorded those deferrals. Thus, this matter concluded January 6, 2012 and any data requests due after that date are moot.

Steve Seiple
Assistant General Counsel
Phone: (614) 460-4648
Blackberry: (614) 273-5900
Fax: (614) 460-6986

From: "LARRY SAUER" <SAUER@occ.state.oh.us>
To: <sseiple@nisource.com>
Cc: <bleslie@nisource.com>, "JOE SERIO"
<SERIO@occ.state.oh.us>
Date: 02/01/2012 08:44 AM
Subject: Columbia Manufactured Gas Plant, Case No. 08-606-GA-AAM

Steve

On December 29, 2011, OCC served Columbia with discovery requests in the above captioned case. The Company's responses, to OCC's discovery, were due on January 23, 2012. To date, OCC has not received Columbia's responses. Could you provide me with a status of that discovery, and when OCC might expect to receive Columbia's responses.

Thank you.

CONFIDENTIAL NOTICE:

THIS COMMUNICATION IS INTENDED ONLY FOR THE PERSON OR ENTITY TO WHICH IT IS

ADDRESSED AND MAY CONTAIN CONFIDENTIAL AND/OR PRIVILEGED LEGAL, GOVERNMENTAL MATERIAL.

ANY UNAUTHORIZED REVIEW, USE, DISCLOSURE OR DISTRIBUTION IS

PROHIBITED. IF YOU ARE NOT, OR BELIEVE YOU ARE NOT, THE INTENDED RECIPIENT OF THIS

COMMUNICATION, DO NOT READ IT. PLEASE REPLY TO THE SENDER ONLY, AND STATE THAT

YOU HAVE RECEIVED THIS MESSAGE. THEN IMMEDIATELY DELETE THIS COMMUNICATION

AND

ALL COPIES OF THIS COMMUNICATION. THANK YOU.

Larry S. Sauer
Assistant Consumers' Counsel
10 West Broad Street

Suite 1800
Columbus, Ohio 43215-3485
(614) 466-1312