

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Columbia Gas of Ohio, Inc. for an	)	Case No. 11-5803-GA-RDR
Adjustment to Rider IRP and Rider DSM	)	
Rates to Recover Costs Incurred in 2010.	)	

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**COMMENTS ON THE APPLICATION OF COLUMBIA GAS OF OHIO  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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BRUCE J. WESTON

Joseph P. Serio, Counsel of Record  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215  
(614) 466-9565 – (Serio)  
[serio@occ.state.oh.us](mailto:serio@occ.state.oh.us)

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**I. INTRODUCTION**

The Office of the Ohio Consumers' Counsel ("OCC") hereby files these Comments on the Application of Columbia Gas of Ohio, Inc. ("Columbia" or "the Company") to increase the rates that customers pay through the Infrastructure Replacement Program Rider ("Rider IRP"). Columbia states that the purpose of Rider IRP is to collect from customers the costs incurred for the following three components:

The first component recovers the costs associated with the replacement of natural gas risers that are prone to failure, along with the costs associated with the maintenance, repair and replacement of customer service lines that have been determined by Columbia to present an existing or probable hazard to persons and property. As set forth in the Application filed in Case No. 07-0478-GA-UNC, Columbia will identify and replace approximately 320,000 risers, with costs that could approximate \$160 million. The second component recovers the costs associated with Columbia's Accelerated Mains Replacement Program ("AMRP"). Under the AMRP, Columbia plans to replace approximately 3,770 miles of bare steel pipe, 280 miles of cast iron/wrought iron pipe and an estimated 350,000 to 360,000 steel service lines (company-owned and customer-owned) over a period of approximately 25 years. The third component recovers the costs associated with Columbia's installation of Automatic Meter Reading Devices ("AMRD"). During the calendar years 2009 through 2013,

Columbia will install AMRDs throughout its system at a total cost of approximately \$81.3 million.<sup>1</sup>

Pursuant to the Stipulation and Recommendation (“Stipulation”) filed on October 24, 2008, in Case No. 08-72-GA-AIR et al., and the Opinion and Order of the Public Utilities Commission of Ohio (“PUCO” or “the Commission”) dated December 3, 2008, customers who pay the Rider IRP are subject to increases, up to a predetermined cap, in each year 2009 through 2013.<sup>2</sup>

In addition, Columbia has filed to collect from customers the costs related to the implementation of a demand side management (“DSM”) program. The DSM program is intended to allow customers to manage their gas usage with a goal of reducing bills through various conservation programs as set forth in Case No. 08-833-GA-UNC.<sup>3</sup>

By way of background, on November 30, 2011, Columbia submitted a pre-filing notice of its intent to file an application for approval of an increase in the IRP rider rate and DSM Rider rate that customers pay. OCC filed its Motion to Intervene in these cases on December 16, 2011. OCC’s Motion to Intervene was granted by an Attorney Examiner Entry, dated March 7, 2012 (“Entry”).

On March 7, 2012, the PUCO issued an Entry establishing a procedural schedule that, *inter alia*, established the Comment filing date as March 28, 2011.<sup>4</sup> OCC hereby files its Comments in accordance with that Entry.

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<sup>1</sup> Application at 2.

<sup>2</sup> *In re Columbia Rate Case*, Case No. 08-72-GA-AIR, et al., Opinion and Order at 9 (December 3, 2008).

<sup>3</sup> *In re DSM Case*, Case No. 08-833-GA-UNC, Application (July 1, 2008), and approved by the Commission in Finding and Order (July 23, 2008).

<sup>4</sup> Entry at 2 (March 7, 2012).

## **II. RESERVATION OF RIGHTS**

A deadline of April 2, 2012 has been established for the Company to notify the Commission as to whether issues raised in Comments have been resolved.<sup>5</sup> In the event OCC Comments are not resolved by April 2, 2012, OCC reserves the right to file additional comments and to file expert testimony on April 9, 2012.

## **III. BURDEN OF PROOF**

The Application has been filed pursuant to R.C. 4929.11. However, the burden of proof regarding the Application rests upon Columbia. In a hearing regarding a proposal that does involve an increase in rates, R.C. 4909.19 provides that, “[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility.”<sup>6</sup> Inasmuch as the annual IRP cases are an outgrowth of Columbia’s 2008 Rate Case, Columbia in this case bears the burden of proof. Therefore, neither OCC nor any other intervenor bears any burden of proof in this case.

## **IV. COMMENTS**

### **A. The Commission Should Modify the Columbia IRP Rate Consistent with the Following OCC Recommended Adjustments.**

#### **1. O&M Cost Savings Methodology Is Not Agreed Upon.**

Columbia’s Application reported Operation and Maintenance (“O&M”) cost savings of \$164,654.<sup>7</sup> O&M cost savings reduce what customers would otherwise have

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<sup>5</sup> Entry at 2 (March 7, 2012).

<sup>6</sup> R.C. 4909.19 (C).

<sup>7</sup> Application at Schedule AMRP-1 (February 28, 2012).

to pay to Columbia. O&M cost savings are expected and were touted by Columbia<sup>8</sup> because the Company was required to replace the leakiest pipe in its distribution system. Therefore, as the leakiest pipeline is repaired, it should require less O&M expense to repair remaining leaks.

In the 2009 IRP Case Columbia witness Stephanie Noel described in her testimony the following methodology for determining O&M cost savings:

It is my understanding that the parties informally agreed to four activities that should be included in the O&M savings calculation: leak inspection, leak repair, general/other, and half of supervision and engineering. Columbia's application contains a comparison of 2010's expense for these four O&M activities against the expense for these activities during the twelve months ended September 30, 2008. Only those activities experiencing savings are included in the calculation of O&M savings.<sup>9</sup>

OCC took exception to Ms. Noel's characterization that there was an informal agreement between the parties,<sup>10</sup> and now also takes issue with Columbia's witness Larry Martin when he made similar characterizations with regard to the methodology for calculating O&M cost savings in this case.<sup>11</sup> That is not accurate.

There were discussions among Columbia, OCC and the PUCO Staff regarding different methodologies to calculate O&M cost savings. In the course of those discussions different proposals were made by different parties. But there was never a formal or informal agreement reached on any proposal discussed during those settlement discussions. The lack of any agreement, informal or otherwise, is illuminated by the fact

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<sup>8</sup>*In re Columbia Rate Case*, Case No. 08-72-GA-AIR, et al., Prefiled Direct Testimony of Tom Brown (March 17, 2008) at 24.

<sup>9</sup> *In re Columbia 2009 IRP Case*, Case No. 10-2353-GA-RDR, Direct Testimony of Stephanie Noel at 12 (February 28, 2010).

<sup>10</sup> Id. OCC Comments at 4 (March 28, 2010).

<sup>11</sup> Direct Testimony of Larry Martin at 9 (February 28, 2012).

that Columbia has not produced or cited to any agreement that supports the witness' claims.

More importantly, no such agreement was ever presented to the Commission for approval. The Commission has previously refused to enforce a settlement agreement that was not first presented to the PUCO for approval. The Commission opined:

[T]he Commission will *not consider* the terms of the [DP&L-OCC] side agreement that was apparently entered into in the context of the ETP case but was not included in the ETP Stipulation, **and was not ever filed with, or approved by, the Commission.**<sup>12</sup>

In that no such agreement has been presented to or approved by the PUCO with regards to a resolution of the methodology to be applied for determining O&M cost savings, it is inappropriate for the Company to contend that such an agreement is dispositive.

However, in any event, there was no such agreement.

## **2. Level Of O&M Cost Savings Is Inadequate.**

The Commission has affirmed that accelerated O&M cost savings is a goal of the accelerated pipeline infrastructure replacement programs. In the East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion") Pipeline Infrastructure Replacement case the PUCO stated, "[i]mmediate customer savings were articulated as a goal of the PIR program."<sup>13</sup> Despite this clearly articulated Commission objective, Columbia has fallen short of this goal of immediate savings for customer based on its reporting of a mere \$164,854 in O&M cost savings for 2011.

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<sup>12</sup> *In re Complaint of MVCC Against DP&L*, Case No. 04-85-EL-CSS, et al, Entry on Rehearing at 6 (March 23, 2005) (Emphasis added), See also *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 110 Ohio St.3d 394, 2006-Ohio-4706 (PUCO decision affirmed) (September 27, 2006).

<sup>13</sup> *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge and Related Matters*, Case No. 09-458-GA-RDR, Opinion and Order (December 16, 2000) at 11.

This inadequacy is especially apparent when the \$164,854 in O&M cost savings in Columbia's current Application is compared to the level of O&M cost savings from Columbia's previous IRP cases -- the 2009 Case (\$1.8 million) and even last year's case (\$413,613). Columbia's \$164,854 in O&M cost savings appear even more paltry when compared to the annual level of O&M cost savings achieved by Duke Energy Ohio, Inc. ("Duke") and Dominion at a comparable period of time in their accelerated mains pipeline replacement programs.

Duke reported \$8.5 million in O&M cost savings during the first five years of its Accelerated Mains Replacement Program (2003 - 2007) or an average of \$1.7 million per year.<sup>14</sup> Columbia on the other hand, reported in its annual IRP Application, \$0 savings in year one,<sup>15</sup> \$0 savings in year two,<sup>16</sup> \$413,613 in year three,<sup>17</sup> and \$164,854 in year 4 or an average of only \$144,617 per year.<sup>18</sup> **Thus, Duke averaged over ten times more in O&M cost savings on average per year for customers than Columbia.** Moreover, it should be kept in mind that Columbia is a significantly larger Local Distribution Company than Duke, serving almost four times as many customers, making the disparity in O&M cost savings even more concerning. This begs the question of how did Duke achieve and report such significant O&M cost savings while Columbia did not.

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<sup>14</sup> *In re Duke Rate Case*, Case No. 07-589-GA-AIR, et al., Direct Testimony of Sandra Meyer at 22 (August 1, 2007).

<sup>15</sup> *In re 2008 Columbia IRP Case*, Case No. 09-06-GA-UNC, Stipulation at Attachment 2 (June 2, 2009).

<sup>16</sup> *In re 2009 Columbia IRP Case*, Case No. 09-1036-GA-RDR, Application (February 26, 2010) at Schedule AMRP-1. (Not only did Columbia propose no O&M cost savings, but the Company actually reported an increase in the O&M expenses of approximately \$1.8 million over the baseline). See Schedule AMRP-9B.

<sup>17</sup> *In re 2009 Columbia IRP Case*, 09-1036-GA-RDR Application at Schedule AMRP-1 (February 28, 2010).

<sup>18</sup>  $\$0 + \$0 + \$413,613 + \$164,854 = \$578,467 \div 4 = \$144,617$ .



Dominion has also achieved much greater O&M cost savings than Columbia. In Dominion's first three PIR filings it has achieved \$554,300,<sup>19</sup> 258,570<sup>20</sup> and \$2,127,563 respectively.<sup>21</sup> This represents a three-year average of O&M cost savings in the amount of \$980,144.

The average O&M cost savings of Columbia, Duke and Dominion have been compiled into the table below.

<u>Company</u>	<u>Total O&amp;M Savings</u>	<u>Avg O&amp;M Cost Savings per Year</u>	<u>Period</u>
Columbia	\$ 578,467	\$ 144,617	2008 - 2011
Duke	\$ 8,500,000	\$ 1,700,000	2003 - 2007
Dominion	\$ 2,940,433	\$ 980,144	2008 - 2010

In contrast to the minimal actual O&M cost savings achieved to date, Columbia touted “**significant** reduction in leakage and associated operation and maintenance expenses over the duration of the proposed AMRP.”<sup>22</sup> More importantly, the same witness (David Roy Manager Field Engineering) also testified that at the time of Columbia's rate case filing the Company had already been ramping up its capital replacement program for a year and a half.<sup>23</sup> Thus after a year and a half of ramping up efforts and four full years of the IRP program, Columbia has achieved a four year total of \$578,467 in O&M cost savings which amounts to less than one-third of the average

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<sup>19</sup> *In re Dominion 2009 PIR Case*, Case No. 09-458-GA-RDR Opinion and Order at 11 (December 16, 2009).

<sup>20</sup> *In re Dominion 2010 PIR Case*, Case No. 10-733-GA-RDR Application at Schedule B-1 (August 31, 2010).

<sup>21</sup> *In re Dominion 2011 PIR Case*, Case No. 11-3238-GA-RDR Application at Exhibit A Schedule 1 (August 31, 2011).

<sup>22</sup> *In re Columbia Rate Case*, Case No. 08-72-GA-AIR, et al., Prefiled Direct Testimony of David Roy (March 17, 2008) at 20. (Emphasis added).

<sup>23</sup> *Id.* at 20.

annual O&M cost savings that Duke was able to achieve and report. Clearly, this level of O&M cost savings does not rise to the level of “significant” savings that Columbia promised for customers. And it pales in comparison to O&M cost savings achieved by other local distribution companies.

The low level of O&M cost savings achieved by Columbia for customers is disappointing. It also is disappointing that Columbia failed to provide in its testimony an explanation for this disparity and failed to offer a justification for the significant decline in O&M cost savings achieved from last year to this year.

One means of assuring that O&M cost savings are available for customers’ benefit is to establish a minimum level of O&M cost savings. Such a proposal was made by Dominion and approved by the Commission in Dominion’s 2010 PIR expansion case.<sup>24</sup> In light of the average O&M cost savings achieved by Duke (\$1.7 million) and, Dominion (\$980,000), the Commission should establish a minimum threshold level of O&M cost savings for Columbia. The Commission should order Columbia to guarantee at least \$1 million in O&M cost savings each year in order to assure that customers benefit from an appropriate level of O&M savings.

Therefore, the Commission should re-emphasize the goal of significant accelerated O&M cost savings for customers. By establishing a \$1 million threshold for O&M cost savings, the IRP Rider Rate would be reduced by \$0.04 per residential customer per month. Absent such a minimum threshold for O&M cost savings, Columbia is enabled to achieve all of the shareholder benefits from the IRP program while customers are denied the financial benefit of the O&M cost savings. The PUCO

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<sup>24</sup> *In re Dominion PIR Expansion Case*, Case No. 11-2401-GA-RDR, Opinion and Order at 7 (August 3, 2011).

has repeatedly stressed the need for significant O&M cost savings and Columbia's level of O&M cost savings in this Application is unreasonable.<sup>25</sup> The PUCO should act to preserve the consumer protection component of the IRP program.

**3. The Commission Should Limit Columbia's Recovery of Costs from Customers In The IRP To The Incremental Accelerated Main Replacements As Directed In The Rate Case Opinion And Order.**

Pursuant to the Commission's Order in the 2008 Columbia Rate Case, the PUCO should limit what customers pay for Columbia's recovery of AMRP investment. The limit on customer payments should be to confine Columbia to only collecting the incremental amount above and beyond what the Company was already spending or planning on spending. The 2008 Columbia Rate Case Opinion and Order stated:

While we are willing to approve the establishment of the rider, our understanding of the projects to be recovered under the rider are projects that would not otherwise be funded by Columbia's existing capital replacement program (Columbia Ex. 13 at 18.)  
**Our intent is that Rider IRP should not be used to recover investment costs that would routinely be included in and funded by the company's existing capital replacement program.**<sup>26</sup>

The Commission clearly articulated its intent to limit Columbia's recovery in this proceeding.

In Columbia's 2010 IRP Opinion and Order the Commission addressed the incremental investment issue. The Commission stated:

Columbia will not use Rider IRP to recover investment costs that would routinely be included in and funded by Columbia's existing capital replacement program. Columbia will provide evidence in

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<sup>25</sup> *In re Dominion 2009 PIR Case*, Case No. 09-458-GA-RDR Opinion and Order at 11 (December 16, 2009).

<sup>26</sup> *In re Columbia Rate Case ("2008 Columbia Rate Case")*, Case No. 08-72-GA-AIR, et al., Opinion and Order at 14 (December 3, 2008) (emphasis added).

its annual Rider IRP applications to show that the rider was not used to recover the costs of projects that otherwise would have been included in its capital replacement program. The parties will work together in an effort toward agreeing on a methodology (to be applied prospectively) for determining incremental capital additions for recovery through Rider IRP. If the parties are unable to reach agreement on a methodology, then each party is free to propose its own methodology in Columbia's Rider IRP adjustment to be filed in 2012.

There were discussions among Columbia, OCC and the PUCO Staff regarding different incremental capital additions methodologies. In the course of those discussions different proposals were made by different parties. But there was never a formal or informal agreement reached on any proposal discussed during those settlement discussions.

Columbia filed as an attachment to witness Martin's testimony a schedule that demonstrates that on the basis of its investment spending in 2008 alone, the Company has managed to outspend the 5 year average incremental investment on a cumulative basis between 2008 and 2011.<sup>27</sup> The Company argues that the Commission should rely on the cumulative spending to address whether or not the Company has achieved the required incremental spending issue. Mr. Martin in his testimony stated the following:

- Q. Based on this approach, did Columbia include investment costs in Rider IRP that would have routinely been included in its capital replacement program?
- A. No. Over the first four years of Rider IRP, Columbia has placed in service over \$126 million of capital investments that were not included in Rider IRP. This includes replacing curb to main service lines, mandatory system relocates, meter replacements, and all other age and condition projects that did not contain priority pipe. Cumulatively, this exceeds the annual historical average by more than \$14 million (\$28 million times 4 years of additions = \$112 million; \$126 million four year

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<sup>27</sup> Direct Testimony of Larry Martin at Attachment LWM-1 (February 28, 2012).

cumulative plant in service additions - \$112 million historical average).<sup>28</sup>

However, there is no precedent in any of the numerous Local Distribution Company (“LDC”) infrastructure replacement proceedings for such a cumulative approach. For example, the Commission has not previously looked at O&M cost savings on a cumulative basis, and should not look at this issue on a cumulative basis here.

The Company has under-spent the 5 year average incremental investment by \$5,497,510 in 2009, \$10,374,745 in 2010 and \$6,809,089 in 2011. The Commission should consider the Company’s investment spending each year to determine if those IRP investments exceed the 5 year average (i.e. \$28 million). If the Company’s IRP investment spending in any given year fails to exceed the 5 year average, then the amount by which the Company’s investment spending fails to exceed the \$28 million threshold should be disallowed for IRP cost recovery. Therefore, in this case, the Commission should disallow Columbia’s recovery in 2011 for the amount of Columbia’s IRP investment spending that fell below the 5 year average (i.e. \$6,809,089).<sup>29</sup>

To allow the Company to collect from customers costs related to investments that it historically had been spending on main replacements would be a violation of the Commission’s 2008 Columbia Rate Case Opinion and Order. The limitation of IRP-related recovery to the cost of Columbia’s incremental investment in excess of the costs that would routinely be included in and funded by the Company’s existing capital replacement program results in a reduction to the IRP rate of \$0.04 for a residential customer (typically in the SGS Class).

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<sup>28</sup> *Id.* at 12.

<sup>29</sup> *Id.* at LWM-1.

**4. The Commission Should Exclude The Costs Related To The Replacement Of Plastic Pipe From The IRP Monthly Charge.**

OCC recommends that any costs associated with the removal and replacement of plastic pipe be excluded from collection from customers in the Rider IRP mechanism. The Columbia Rate Case Stipulation states Rider IRP will provide for recovery of costs incurred in: “Columbia’s replacement of cast iron, wrought iron, unprotected coated steel and bare steel pipe in its distribution system, as well as Columbia’s replacement of company-owned and customer-owned metallic service lines identified by Columbia during the replacement of all the above types of pipe.”<sup>30</sup> There is and was no expectation of the Parties, pursuant to the Columbia Rate Case Stipulation or the Opinion and Order, that Columbia would recover the costs of the replacement of plastic mains through the IRP Rider.

To this end, the Commission, in the Opinion and Order approving the Columbia Rate Case Stipulation, states:

while we are willing to approve the establishment of the rider, our understanding of the projects to be recovered under the rider are projects that would not otherwise be funded by Columbia’s existing capital replacement program (Columbia Ex. 13 at 18). Our intent is that Rider IRP should not be used to recover investment costs that would routinely be included in and funded by the company’s existing capital replacement program.<sup>31</sup>

The IRP rider should not be the mechanism to collect from customers the costs of replacing old plastic with new plastic mains and services.

Columbia’s testimony in this case states: “that 205,955 feet of plastic pipe has been replaced during 2011 in the course of the IRP and those costs will be recovered

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<sup>30</sup> 2008 Columbia Rate Case, Stipulation at 8 (October 24, 2008).

<sup>31</sup> 2008 Columbia Rate Case, Opinion and Order at 14 (December 3, 2008).

through the IRP Rider.”<sup>32</sup> Columbia witness Eric Belle further states: “that these plastic pipes typically are short sections of plastic main consisting primarily of Priority Pipe and, in some cases; Columbia abandons the plastic main because it is being moved to a different location.”<sup>33</sup> This scenario does not fit into the IRP, as no metallic mains are being removed in the process -- only lengths of plastic main are being moved/replaced because of some main relocation project.

While the Company characterizes the replacement of the plastic mains as being small sections, this year’s filing includes the replacement of 39 miles or 15 percent of the total 2011 main replacements -- a significant portion of the total replacements. In fact, significant replacement of plastic mains might help explain why O&M cost savings did not materialize.

In its Application, Columbia does not break out the capital investment and associated costs of replacing its mains and services by pipe composition (cast iron, bare steel, plastic, etc.). Therefore, OCC had to estimate the cost associated with the inclusion of the plastic main replacement in the revenue requirement in this proceeding.

In the absence of specific capital investment and cost data associated with replacing plastic mains, OCC used the average capital investment and associated costs of the IRP main replacement projects to estimate the capital investment and associated costs of replacing plastic mains. The elimination of the costs associated with new plastic mains that replace the existing plastic mains in 2011 from the IRP Rider calculation will impact the total expense and annualized return on rate base numbers that makes up the

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<sup>32</sup> Columbia Direct Testimony of Eric T. Belle at 2 (February 28, 2012).

<sup>33</sup> *Id.* at 3.

revenue requirement to be collected. OCC proposes to reduce the 2011 IRP-related revenue requirement by \$0.04 per month for residential customers.<sup>34</sup>

The reduction of revenue requirement associated with the exclusion of costs associated with establishing a minimum O&M cost savings threshold of \$1 million (\$0.04), replacing plastic mains (\$0.04) and the adjustment for failing to exceed the 5-year average incremental investment (\$0.04) will result in a decrease in the IRP Rider Rate for residential customers to \$1.11 ( $\$1.23 - \$0.12 = \$1.11$ ) in the proposed monthly AMRP portion of the IRP charge for residential customers (SGS Class).<sup>35</sup>

## **V. CONCLUSION**

The Office of the Ohio Consumers' Counsel respectfully submits these Comments on the Columbia Application in conformance with the Stipulation and with the Attorney Examiner's Entry. OCC's recommendations are directed toward producing for Columbia's approximately 1.2 million residential consumers the best result and lowest reasonable rate possible.

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<sup>34</sup> See OCC Attachment 1.

<sup>35</sup> See OCC Attachment 2.



Respectfully submitted,

BRUCE J. WESTON

/s/ Joseph P. Serio

Joseph P. Serio, Counsel of Record  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215

(614) 466-9565

[serio@occ.state.oh.us](mailto:serio@occ.state.oh.us)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these *Comments* have been served via electronic service to the parties of record identified below on this 28th day of March 2012.

/s/ Joseph P. Serio

Joseph P. Serio  
Assistant Consumers' Counsel

## **PARTIES**

William Wright  
Attorney General's Office  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215  
[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)

Stephen B. Seiple  
Columbia Gas of Ohio, Inc.  
200 Civic Center Drive, P.O. Box 117  
Columbus, Ohio 43216-0117  
[sseiple@nisource.com](mailto:sseiple@nisource.com)

Colleen L. Mooney  
Ohio Partners For Affordable Energy  
231 West Lima Street  
P.O. Box 1793  
Findlay, Ohio 45839-1793  
[cmooney2@columbus.rr.com](mailto:cmooney2@columbus.rr.com)

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Summary: Comments Comments on the Application of Columbia Gas of Ohio by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.