

Affidavit of Katherine M. Lycourt-Donovan

Case No. 12-2877-GA-CSS

Page 1

**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint  
of Katherine M. Lycourt-Donovan  
Complainant,

v.

Columbia Gas of Ohio, Inc.  
Respondent.

Case No. 12-2877-GA-CSS

In the Matter of the Complaint  
of Seneca Builders LLC,  
Complainant,

v.

Columbia Gas of Ohio, Inc.,  
Respondent.

Case No. 13-124-GA-CSS

In the Matter of the Complaint  
of Ryan Roth et al.,  
Complainants,

v.

Columbia Gas of Ohio, Inc.,  
Respondent.

Case No. 13-667-GA-CSS

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**AFFIDAVIT OF COMPLAINANT**  
**KATHERINE M. LYCOURT-DONOVAN**

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**STATE OF OHIO**            )  
                                  ) **SS.**  
**COUNTY OF LUCAS**        )

Affidavit of Katherine M. Lycourt-Donovan  
Case No. 12-2877-GA-CSS  
Page 2

Affiant, Katherine M. Lycourt-Donovan, of legal age and after having been duly sworn and cautioned does hereby state that following facts, under oath, and upon her own personal knowledge:

1. I, Katherine M. Lycourt-Donovan (Affiant), reside in a subdivision known as Graystone Woods in Toledo, Ohio. Affiant's residential address is 2130 Oakside Road, Toledo, Ohio. Affiant has a pending case against Columbia Gas of Ohio, Inc. (Columbia) before the Public Utilities Commission of Ohio (the Commission). Affiant's case was combined for hearing purposes with two other complainants (Seneca Builders LLC and Ryan Roth et al).
2. A hearing was held before the Commission on November 19, 20 and 21, 2013. The parties filed briefs on January 10, 2014 and reply briefs on February 3, 2014. The Commission has not yet ruled in the matters pending in the three cases.
3. On March 14, 2014, subsequent to the hearing and the filing of briefs and reply briefs, Affiant was contacted by Columbia via U.S. mail. The subject document sent to Affiant by Columbia is referred to herein as "the Correspondence". A copy of the Correspondence is attached.
4. Columbia initiated the Correspondence unilaterally. Affiant did not seek or otherwise request the Correspondence from Columbia.
5. The information contained in the Correspondence is material to Affiant's pending case.

6. As shown in the Correspondence, the Correspondence was directly sent to Affiant. The Correspondence was not a mass mailing sent to "Resident" or "Occupant". The Correspondence was specifically and purposefully sent by Columbia to Affiant at Affiant's home address, the very service address that is the subject of Affiant's pending case.
7. The Correspondence presents Columbia's assertions that it is advantageous to become a Columbia customer. The Correspondence and Columbia's assertions are tantamount to the harassment of Affiant at this stage of a pending case. However, Affiant wishes to focus instead upon Columbia's language in the Correspondence that states "...when you become a Columbia Gas customer...". Such language in the Correspondence cannot be interpreted in any way other than the intended recipient of the Correspondence (the Affiant) is currently NOT a Columbia customer. Columbia failed to disclose this view that Affiant is NOT a Columbia customer during the hearing.
8. First, the Correspondence conclusively demonstrates that Columbia withheld information during these proceedings. Second, the Correspondence affirms Affiant's position that Columbia abandoned Affiant as a customer while explicitly contradicting Columbia's stated position that Columbia considers Affiant to be a Columbia customer. Third, the Correspondence conclusively shows that Columbia employee Mr. Christopher Kozak perjured himself at least three times in his sworn testimony before the Commission during the hearing.

9. It is not in dispute that Columbia's gas service line on Oakside Road that provided natural gas service to Affiant was "closed for service" by Columbia. Even though the Ohio Revised Code explicitly defines abandonment using the terms "closed for service", Columbia has denied that Columbia has abandoned Affiant because Columbia still considers Affiant to be a customer. However, the language used by Columbia in the Correspondence is entirely contradictory to Columbia's position regarding abandonment. Columbia's statement to Affiant in the Correspondence "...when you become a Columbia Gas customer..." conclusively establishes Columbia's actual view of Affiant: **Columbia does NOT regard Affiant as a customer, as Columbia is not attempting to entice existing customers to become customers.** The Correspondence fully supports Affiant's position that Columbia has illegally abandoned service to Affiant. The Correspondence also fully renders hollow Columbia's denial of abandonment.
10. Given that the Correspondence provides conclusive documentation of the fact that Columbia does NOT consider Affiant to be a customer, the Correspondence can be therefore used to provide the Commission with assurance that Columbia employee Mr. Kozak deliberately and intentionally misrepresented Columbia's position during his sworn testimony in the hearing. Mr. Kozak's re-direct examination by Columbia counsel was as follows<sup>1</sup>:

*Q. Does Columbia still consider the residents of Graystone Woods to be its customers?*

*A. Yes.*

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<sup>1</sup> Transcript III, Page 550, Lines 18 – 20, testimony of Mr. Kozak.

Mr. Kozak's simple, direct and straightforward answer "Yes" was further reinforced by his subsequent testimony during continued examination by Columbia's counsel, as follows<sup>2</sup>:

*Q. Did Columbia continue to consider the residents at Graystone Woods its customers after their accounts were removed from the computer system so as to stop them from receiving bills?*

*A. Yes.*

*Q. And when you say that Columbia still considered them customers, what do you mean?*

*A. Well, they had -- still had meters on the side of their homes and our natural gas structure in their yards.*

When questioned yet again during re-cross examination by counsel for complainants Roth and Seneca, Mr. Kozak continued to testify that Columbia continues to consider the residents of Oakside Woods to be customers, as follows<sup>3</sup>:

*Q. And you also stated upon questioning from Columbia's counsel that Columbia still considered these folks to be customers; isn't that correct?*

*A. Yes.*

11. As the Correspondence shows, Affiant is NOT a Columbia customer, and Columbia does NOT consider Affiant to be a customer. Thus, Mr. Kozak's sworn testimony is clearly and unquestionably nothing more than perjury. The false testimony by Mr. Kozak was deliberate and intentional, and was intended to harm Affiant and inappropriately benefit Columbia.

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<sup>2</sup> Transcript III, Page 558, Line 17 to Page 559, Line 1, testimony of Mr. Kozak.

<sup>3</sup> Transcript III, Page 577, Lines 6 – 9, testimony of Mr. Kozak.

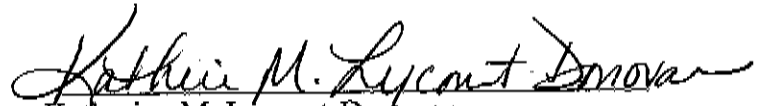
Affidavit of Katherine M. Lycourt-Donovan

Case No. 12-2877-GA-CSS

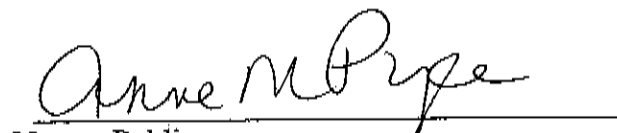
Page 6

12. Given that Columbia intentionally sent the Correspondence to Affiant, and further that the Correspondence demonstrates Columbia's deliberate attempt to deceive the Commission through Mr. Kozak's testimony, Affiant respectfully requests the Commission to review and consider the Correspondence when the Commission rules in this matter.

FURTHER AFFIANT SAYETH NOT.

  
Katherine M. Lycourt-Donovan

Sworn to and subscribed in my presence this 18<sup>th</sup> day of April, 2014.

  
Notary Public

My Commission Expires: 11-6-2017



ANNE M. PYLE  
Notary Public, State of Ohio  
My Commission Expires Nov. 6, 2017  
Recorded in Lucas County

Affidavit of Katherine M. Lycourt-Donovan  
Case No. 12-2877-GA-CSS  
Page 7

Respectfully submitted by

**KATHERINE M. LYCOURT-DONOVAN**

/s/ Katherine M. Lycourt-Donovan

**COMPLAINANT**

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Affidavit of Katherine M. Lycourt-Donovan

Case No. 12-2877-GA-CSS

Page 8

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing AFFIDAVIT OF COMPLAINANT KATHERINE M. LYCOURT-DONOVAN has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on April 18, 2014.

/s/Katherine Lycourt Donovan  
Katherine Lycourt Donovan

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Seneca Builders, LLC**



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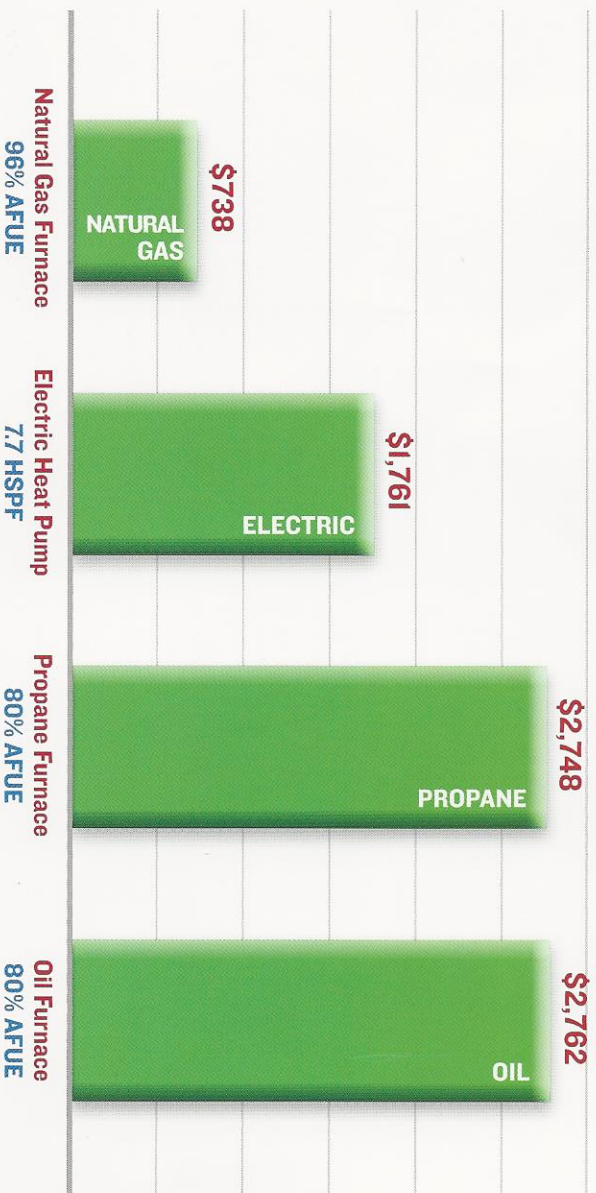
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Pricing Sources: U.S. Energy Information Administration statewide average annual price for fuel oil and propane for the twelve months ending November 2013 and statewide average annual price for electricity through November 2013. Natural gas price is based on Columbia Gas of Ohio residential gas rate for the twelve months ending November 2013. Assumptions: Total annual bill is based on energy use of 84 mmbtu or its equivalent. These calculations are estimates only. Actual energy usage and cost will vary based on customer preferences and other factors.

**This foregoing document was electronically filed with the Public Utilities**

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Summary: Affidavit Affidavit of Complainant Katherine M Lycourt-Donovan electronically filed by Ms. Katherine M Lycourt Donovan on behalf of Lycourt-Donovan, Katherine M Ms.