

**FAX****FILE**

**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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**REPLY TO COLUMBIA GAS OF OHIO, INC. MEMORANDUM CONTRA TO  
AFFIDAVIT OF COMPLAINANT KATHERINE M. LYCOURT-DONOVAN**

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**I. INTRODUCTION**

Complainant Katherine Lycourt-Donovan ("Ms. Donovan" or "Complainant") recently filed an affidavit in the above-captioned case dockets demonstrating that Columbia Gas of Ohio, Inc. ("Columbia"), contrary to the sworn testimony of Columbia

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witnesses, does not consider her to be a Columbia customer. Ms. Donovan filed this affidavit after the post-hearing briefs in this matter were filed. Although the record is closed, the information presented by Ms. Donovan is material to these cases, obtained subsequent to the close of the hearing and speaks to a central issue in the case. Therefore, the Commission should overlook Ms. Donovan's failure to specifically file a motion to re-open the proceedings per Ohio Administrative Code 4901-1-34 and consider her affidavit as a motion to reopen the proceedings. The motion should be approved because the information provided satisfies the requirements of O.A.C. 4901-1-34.

## II. ARGUMENT

### **A. Ms. Donovan's Filing Should Be Treated as a Request to Reopen the Proceedings, or in the Alternative, the Hearing Examiner May Reopen the Proceeding to Consider this New Evidence.**

Ohio Administrative Code 4901-1-34(A) states that the Commission, the legal director, the deputy legal director, or an attorney examiner may, upon their own motion or upon motion of any person for good cause shown, reopen a proceeding at any time prior to the issuance of an order. Under O.A.C. 4901-1-34 requires such a motion specifically set forth the purpose for the requested reopening. Additionally, if the purpose is to present new evidence then the nature and purpose of the evidence must be specifically described, and the facts set forth showing why the evidence could not, with reasonable diligence, been presented during the hearing.<sup>1</sup> Here, Ms. Donovan, satisfied all

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<b>In the Matter of the Complaint</b>	)	
<b>of Katherine M. Lycourt-Donovan</b>	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 12-2877-GA-CSS</b>
	)	
<b>Columbia Gas of Ohio, Inc.</b>	)	
<b>Respondent.</b>	)	
<b>In the Matter of the Complaint</b>	)	
<b>of Seneca Builders LLC,</b>	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 13-124-GA-CSS</b>
	)	
<b>Columbia Gas of Ohio, Inc.,</b>	)	
<b>Respondent.</b>	)	
<b>In the Matter of the Complaint</b>	)	
<b>of Ryan Roth et al.,</b>	)	
<b>Complainants,</b>	)	
	)	<b>Case No. 13-667-GA-CSS</b>
<b>v.</b>	)	
	)	
<b>Columbia Gas of Ohio, Inc.,</b>	)	
<b>Respondent.</b>	)	

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**REPLY BRIEF by RYAN ROTH AND R&P INVESTMENTS, INC., AND  
SENECA BUILDERS, LLC, TO COLUMBIA GAS OF OHIO, INC.  
MEMORANDUM CONTRA TO AFFIDAVIT OF COMPLAINANT KATHERINE  
M. LYCOURT-DONOVAN**

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**I. INTRODUCTION**

Complainant Katherine Lycourt-Donovan ("Ms. Donovan" or "Complainant") recently filed an affidavit in the above-captioned case dockets demonstrating that

Columbia Gas of Ohio, Inc. ("Columbia"), contrary to the sworn testimony of Columbia witnesses, does not consider her to be a Columbia customer. Ms. Donovan filed this affidavit after the post-hearing briefs in this matter were filed. Although the record is closed, the information presented by Ms. Donovan is material to these cases, obtained subsequent to the close of the hearing and speaks to a central issue in the case. Therefore, the Commission should overlook Ms. Donovan's failure to specifically file a motion to re-open the proceedings per Ohio Administrative Code 4901-1-34 and consider her affidavit as a motion to reopen the proceedings. The motion should be approved because the information provided satisfies the requirements of O.A.C. 4901-1-34.

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