

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint)	
of United Services Automobile Association.,)	
Complainant,)	
v.)	Case No. 14-1176-GA-CSS
)	
Columbia Gas of Ohio, Inc.,)	
Respondent.)	

**RESPONDENT COLUMBIA GAS OF OHIO, INC.'S
UNOPPOSED MOTION FOR LEAVE TO FILE ANSWER OF RESPONDENT
COLUMBIA GAS OF OHIO, INC.
TO COMPLAINANT'S FIRST AMENDED COMPLAINT *INSTANTER***

Pursuant to Rule 4901-1-12, Ohio Administrative Code ("O.A.C."), Respondent Columbia Gas of Ohio, Inc. ("Columbia") requests leave to file the instant Answer of Respondent Columbia Gas of Ohio, Inc. to Complainant's First Amended Complaint, a copy of which is attached hereto. Although Columbia timely answered and moved to dismiss the original Complaint of Complainant United Services Automobile Association ("USAA") in this proceeding, Columbia inadvertently did not file an updated Answer to USAA's First Amended Complaint, which the Attorney Examiner accepted on August 26, 2014. The Commission should grant this motion in order to eliminate confusion or ambiguity regarding Columbia's defenses to the First Amended Complaint. Counsel for USAA has indicated that USAA does not oppose this motion. Accordingly, Columbia respectfully requests that the Commission grant this motion and order that the attached Answer be docketed in this proceeding.

Respectfully submitted,

/s/ Eric B. Gallon

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Attorneys for Respondent

COLUMBIA GAS OF OHIO, INC.

MEMORANDUM IN SUPPORT

Columbia Gas of Ohio, Inc. ("Columbia") respectfully requests that the Commission grant it leave to file the attached Answer of Respondent Columbia Gas of Ohio, Inc. to Complainant's First Amended Complaint. Complainant United Services Automobile Association ("USAA") initiated this proceeding against Columbia and NiSource Inc. ("NiSource") on July 3, 2014. Columbia and NiSource timely filed an Answer to USAA's Complaint and a motion to dismiss it on the grounds that NiSource is not a public utility subject to this Commission's jurisdiction, USAA alleged claims and sought relief that this Commission does not have jurisdiction to hear or grant, and USAA failed to state reasonable grounds for complaint under Section 4905.26, Revised Code.¹

USAA opposed Columbia and NiSource's motion to dismiss, but it conceded that its claims against NiSource, some of its claims against Columbia, and some of the relief it requested were improper.² USAA attached as Exhibit A to its memorandum contra "a First Amended Complaint to effectuate the removal of NiSource, the removal or certain claims, and the revision to other aspects of the Complaint."³

In their reply memorandum in support of their motion to dismiss, Columbia and NiSource encouraged the Commission to treat Exhibit A to USAA's memorandum contra as a motion for leave to amend its complaint under Rule 4901-1-06, O.A.C., and to grant that motion.⁴ They reiterated, however, that USAA's remaining claims in the First Amended Complaint are not properly before the Commission, for the reasons set forth in their motion to dismiss.⁵

On August 26, 2014, the Attorney Examiner issued an Entry accepting USAA's First Amended Complaint.⁶ As that Entry noted, USAA's First Amended Complaint does not contain any new or additional allegations against Columbia but only removes NiSource from this action and removes certain of USAA's

¹ See Answer (July 23, 2014); Mot. to Dismiss (July 23, 2014).

² Response Contra Mot. to Dismiss (Aug. 11, 2014).

³ *Id.* at Ex. A.

⁴ Reply Mem. (Aug. 21, 2014).

⁵ *Id.*

⁶ Entry at 3-4 (Aug. 26, 2014).

claims.⁷ Although Columbia was aware of the First Amended Complaint's acceptance, it inadvertently failed to timely file an updated Answer to the First Amended Complaint. Columbia seeks leave to do so now, to eliminate any ambiguity or confusion regarding its defenses to USAA's remaining claims.

Allowing Columbia to file the attached Answer will not prejudice USAA, as Columbia's initial Answer already previously responded to each and every allegation that remains in USAA's First Amended Complaint. Counsel for USAA also has indicated that USAA does not oppose this motion. Accordingly, Columbia respectfully requests that the Commission grant this motion and order that the attached Answer be docketed in this proceeding.

Respectfully submitted,

/s/ Eric B. Gallon

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**Attorneys for Respondent
COLUMBIA GAS OF OHIO, INC.**

⁷ *Id.* at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion was served by regular mail on this 29th day of December, 2014, upon the following:

Andrew P. Avellano
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Columbus, Ohio 43213

Erick J. Kirker
COZEN O'CONNOR
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Philadelphia, Pennsylvania 19103

Counsel for Complainant
United Services Automobile Association

/s/ Eric B. Gallon

Eric B. Gallon

**BEFORE
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**ANSWER OF RESPONDENT
COLUMBIA GAS OF OHIO, INC.
TO COMPLAINANT'S FIRST AMENDED COMPLAINT**

Now comes the Respondent, Columbia Gas of Ohio, Inc. ("Columbia"), and files its Answer to the First Amended Complaint filed herein on August 11, 2014, and accepted by Attorney Examiner Entry on August 26, 2014.

Introduction

1. Respondent denies that it in any way failed to provide reasonable, necessary, or adequate natural gas service. Respondent denies that it caused any damage to Complainant's insured's property. The remaining allegations in Paragraph 1 of the First Amended Complaint state legal conclusions to which no response is required.
2. Respondent admits that Complainant is seeking the relief identified in Paragraph 2 of the First Amended Complaint. Respondent denies the remaining allegations in Paragraph 2 of the First Amended Complaint.

General Allegations

3. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 3 of the First Amended Complaint.

4. Respondent denies that it is trading as “Columbia Gas Distribution Companies.” Respondent admits the remaining allegations in Paragraph 4 of the First Amended Complaint.
5. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5 of the First Amended Complaint.
6. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 6 of the First Amended Complaint.
7. Respondent admits that it conducts business in the state of Ohio and in Delaware County, Ohio, and that it distributes natural gas to both residential and commercial properties, including Complainant’s insured’s residence. Respondent denies the remaining allegations in Paragraph 7 of the First Amended Complaint.
8. Respondent admits the allegations in Paragraph 8 of the First Amended Complaint.
9. Respondent denies the allegations in Paragraph 9 of the First Amended Complaint.
10. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 10 of the First Amended Complaint.
11. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 11 of the First Amended Complaint.
12. Paragraph 12 of the First Amended Complaint states legal conclusions to which no response is required.
13. Paragraph 13 of the First Amended Complaint states legal conclusions to which no response is required.
14. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 14 of the First Amended Complaint.

Jurisdiction and Statutory Authority

15. Respondent denies the allegations in Paragraph 15 of the First Amended Complaint.

Count I

Complainant v. Respondent Columbia Gas
Service-Related Negligence

16. Respondent incorporates by reference its responses to Paragraphs 1 through 15 of the First Amended Complaint.
17. Respondent denies the allegations in Paragraph 17 of the First Amended Complaint.
18. Respondent denies the allegations in Paragraph 18 of the First Amended Complaint.
19. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 19 of the First Amended Complaint.

Count II

Complainant v. Respondent Columbia Gas
Breach of Tariff

20. Respondent incorporates by reference its responses to Paragraphs 1 through 19 of the First Amended Complaint.
21. Respondent admits that Complainant's insureds were customers of Columbia and subject to Columbia's Commission-approved tariff. Respondent denies the remaining allegations in Paragraph 21 of the First Amended Complaint.
22. Respondent denies the allegations in Paragraph 22 of the First Amended Complaint.
23. Respondent denies the allegations in Paragraph 23 of the First Amended Complaint.
24. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 24 of the First Amended Complaint.

Count III
Complainant v. Respondent Columbia Gas
Regulatory Violations

25. Respondent incorporates by reference its responses to Paragraphs 1 through 24 of the First Amended Complaint.
26. Respondent admits that it is subject to statutory and regulatory obligations imposed by the Ohio General Assembly and the Public Utilities Commission of Ohio. Respondent denies the remaining allegations in Paragraph 26 of the First Amended Complaint.
27. Respondent denies the allegations in Paragraph 27 of the First Amended Complaint.
28. Respondent denies the allegations in Paragraph 28 of the First Amended Complaint.
29. Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 29 of the First Amended Complaint.

Any allegation not expressly admitted herein is denied.

Affirmative Defenses

1. Respondent avers that the Complainant has failed to state reasonable grounds for a complaint against Respondent as required by Ohio Revised Code § 4905.26.
2. Respondent avers that it has complied with all applicable Ohio statutes, the Commission's rules and regulations and its tariff.
3. Respondent avers that the First Amended Complaint does not comply with the Commission's rules requiring a "statement which clearly explains the facts which constitute the basis of the complaint." Ohio Adm. Code 4901-9-01(B).
4. Respondent avers that the Commission lacks statutory authority to adjudicate Count I of the First Amended Complaint, which contains a tort claim.

5. Respondent avers that the Commission lacks statutory authority to adjudicate Count II of the First Amended Complaint, which contains a contract claim.
6. Respondent avers that the Commission lacks statutory authority to adjudicate Count III of the First Amended Complaint, which merely restates Complainant's tort and contract claims.
7. Respondent reserves the right to raise other defenses as warranted by discovery in this matter.

Respectfully submitted,

/s/ Eric B. Gallon

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COLUMBIA GAS OF OHIO, INC.**

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I hereby certify that a true and accurate copy of the foregoing Answer of Respondent Columbia Gas of Ohio, Inc. to Complainant's First Amended Complaint was served by regular mail on this 29th day of December, 2014, upon the following:

Andrew P. Avellano
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Erick J. Kirker
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Counsel for Complainant
United Services Automobile Association

/s/ Eric B. Gallon

Eric B. Gallon

This foregoing document was electronically filed with the Public Utilities

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Summary: Motion for Leave to File Answer to Complainant's First Amended Complaint
Instantly electronically filed by Mr. Eric B. Gallon on behalf of Columbia Gas of Ohio, Inc.