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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Cobra)
Pipeline Co., LTD. for Approval of)
Tariffs and to Become a Pipeline)
Company/Public Utility)

Case No. 05-1558-PL-ATA

PUCO

**PROTEST AND NOTICE OF DISCOVERY OF THE
OHIO OIL AND GAS ASSOCIATION**

I. INTRODUCTION

On December 17, 2005, Cobra Pipeline Co., LTD ("Cobra"), filed an application asking the Commission to approve a pipeline tariff that omitted any rate information. On March 17, 2006, the Ohio Oil and Gas Association ("the Association") moved to intervene and requested a hearing due to a concern over rate secrecy and the abuses that would allow. In response, Cobra filed Substituted Exhibit D, Proposed Tariff PUCO No. 1, which not only introduced wholly new gas processing requirements, but set forth the following rates:

FIRM TRANSPORTATION SERVICE:

Demand Charge (fixed charge paid
regardless of volumes transported): \$\$.50 x MDQ x number of days
in the month

Commodity Charge (paid only on
quantity transported): \$.10 per Dth

Unauthorized Daily Overrun Charge: \$.60 per Dth

INTERRUPTIBLE TRANSPORTATION SERVICE:

Commodity Charge (paid only on quantity
transported): \$.60 per Dth

PROCESSING AND COMPRESSION:

(paid on quantity received at
Receipt Point) Charge \$0.60 per Dth

As discussed in greater detail below, the Association is concerned that (a) these rates fail to comport with fundamental ratemaking principles designed to protect a utility's customers from

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abuse; and (b) the newly introduced gas processing requirements have been introduced solely to enhance Cobra's revenues at its customers' expense, and will needlessly restrict local Ohio production from reaching Ohio consumers. Accordingly, the Association files this protest and gives notice to the Commission that it has served discovery on Cobra to explore these issues.

II. PROTEST

Cobra's proposed transportation and gas processing rates appear to be unjust and unreasonable on their face. Accordingly, they should be rejected by this Commission.

The reasonableness and justice of rates and charges for the services provided by an Ohio public utility are measured in large part by the original cost of the utility's property when first dedicated to public service, less depreciation. Section 4909.04 of the Revised Code states:

The public utilities commission, for the purpose of ascertaining the reasonableness and justice of rates and charges for the service rendered by public utilities or railroads, or for any other purpose authorized by law, may investigate and ascertain the value of the property of any public utility or railroad in this state used or useful for the service and convenience of the public, using the same criteria that are set forth in section 4909.05 of the Revised Code. [R.C. 4909.04(A) (emphasis added)]

Section 4909.05 of the Revised Code includes, in relevant part, the following criteria: **"the original cost** of each parcel of land owned in fee and in use at the date certain determined by the commission," and **"the original cost** of all other kinds and classes of property used and useful in the rendition of service to the public." R.C. 4909.05(C) and (E). And for reasons of good public policy, this makes sense.

Original cost methodology has long been recognized as a means of protecting the public from artificially inflated rates. For example, nearly thirty years ago the court in *Montana Power Co. v. Federal Energy Regulatory Commission*, 599 F.2d 295 (9th Cir. 1979), observed:

The original cost method has been applied to property acquisitions by utilities to prevent utilities from artificially raising their rate bases by acquiring properties at unrealistically high prices. **As the FPC [Federal Power Commission] has noted, if the original cost concept was not applied to such acquisitions, "all that need be done to raise rates and obtain greater income would be to have one company buy utility properties from another at a higher price than original cost and in this very simple way to increase the size of the rate base and increase the cost of service to consumers."** [Id. at 299 (emphasis added).]

It appears that shippers need that protection from Cobra here.

The proposed transportation rate of \$0.60 per Dth for interruptible transportation service and process rate of \$0.60 per Dth for natural gas processing and compression services, *as required by Cobra*, are excessive on their face and appear to be based on the purchase price paid by Cobra rather than the original cost of the facilities when first dedicated to public service. Add to that the proposed shrink of 3.5% set forth in the Transportation Service Agreement contained in proposed Exhibit D (which adds roughly another \$0.245 per Dth in a \$7.00 per Dth market to the cost of transporting gas on the acquired system), and the charges become abusive!

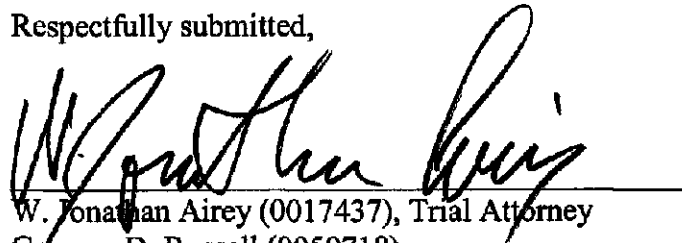
Cobra should not be permitted to impose these rates on shippers without substantial scrutiny and review. This is particularly true in today's high price natural gas environment. The Association therefore renews its request to the Commission to set a hearing in this matter and notifies the Commission that it is serving discovery on Cobra to investigate these issues.

III. CONCLUSION

The Association is concerned that the rates proposed by Cobra Pipeline Co., LTD, are unjust, unreasonable, and wholly unrelated to the original costs of the facilities it wishes to acquire

when first dedicated to public service. It therefore asks the Commission to undertake a review of those costs, set a hearing on the issues raised in this proceeding, and notifies the Commission of its service of discovery to investigate these issues further.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. Jonathan Airey", is written over a horizontal line.

W. Jonathan Airey (0017437), Trial Attorney

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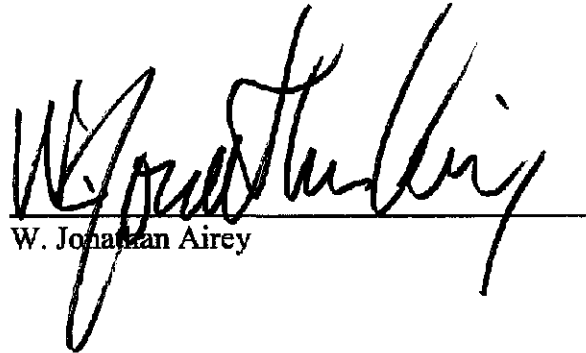
Attorneys for the Ohio Oil and Gas Association

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served by regular U.S. mail, postage prepaid, this 8th day of December, 2006, on the following persons:

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