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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of the Five-Year Review of ) Case No. 08-1229-GA-COI  
Natural Gas Company Uncollectible Riders. )

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REPLY COMMENTS OF COLUMBIA GAS OF OHIO, INC.  
TO THE COMMENTS OF THE  
OFFICE OF THE OHIO CONSUMERS' COUNSEL

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I. INTRODUCTION

On December 17, 2003, the Public Utilities Commission of Ohio ("Commission") issued its Finding and Order in Case No. 03-1127-GA-UNC regarding the approval of an adjustment mechanism for five natural gas companies ("Gas Companies") to recover uncollectible account expenses. In its Finding and Order, the Commission stated that sixty months after implementation of its order, it would undertake an investigation of the uncollectible expense recovery mechanism that was approved in that proceeding. The Commission also noted that the investigation would identify amounts recovered pursuant to the mechanism, address the impact of any changes to the Gas Companies' credit and collection policies and procedures and any Staff recommendations.

On February 5, 2009, in the above-captioned proceeding, and pursuant to the Commission's Finding and Order in Case No. 03-1127-GA-UNC, Staff filed a Staff Report recommending the continued use of the uncollectible account expense adjustment mechanism. On March 16, 2009, the Attorney Examiner in this proceeding issued an Entry permitting initial and reply comments to the Staff Report to be filed by March 16, 2009 and March 26, 2009, respectively. On March 19, 2009 the Office of the Ohio Consumers' Counsel ("OCC") moved to extend the

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deadline to file comments and reply comments to the Staff Report. The Attorney Examiner granted OCC's motion by Entry dated March 23, 2009. OCC filed initial comments the same day pursuant to the Attorney Examiner's Entry. Columbia Gas of Ohio, Inc. ("Columbia") hereby submits its Reply Comments to OCC's Initial Comments.

## II. COMMENTS

### A. **The Commission Should Continue the Uncollectible Expense Mechanism, which Automatically Adjusts within the Limited Parameters Defined within the Uncollectible Expense Rider.**

#### 1. **Ohio Revised Code § 4929.11 permits automatic adjustment mechanisms.**

The OCC argues that absent a statutory mechanism that specifically provides an automatic adjustment mechanism for the recovery of uncollectible expenses the Commission should discontinue uncollectible expense riders<sup>1</sup>. The OCC has made the identical arguments in prior Commission cases, and the Commission has rejected those arguments<sup>2</sup>. The Commission should

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<sup>1</sup> OCC Comments at 3-4.

<sup>2</sup> In footnote 4 of its Comments the OCC incorporated by reference its previous comments, filed October 12, 2001 in Case No. 01-2592-GA-UNC ("2001 Comments"). The Commission previously addressed these comments in Case Nos. 01-2592-GA-UNC and 03-1127-GA-UNC. *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval, Pursuant to Section 4909.16, Revised Code, of a Payment Matching Program and Other Matters*, PUCO Case No. 01-2592-GA-UNC, Entry on Rehearing (October 24, 2001) at 7-8; *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, PUCO Case No. 03-1127-GA-UNC, Finding and Order (December 17, 2003) at 10. Moreover, the Commission rejected OCC's 2001 Comments in its Finding and Order in Case No. 03-1127-GA-UNC, and, because all arguments were addressed and disregarded, the Commission denied OCC's motion to intervene in that proceeding. *Id.*

In response to the OCC's incorporation of its 2001 Comments in this proceeding, Columbia will incorporate by reference, the reply comments in the following cases which also addressed OCC's 2001 Comments: *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval, Pursuant to Section 4909.16, Revised Code, of a Payment Matching Program and Other Matters*, PUCO Case No. 01-2592-GA-UNC, Reply of the East Ohio Gas Company d/b/a Dominion East Ohio to Comments of the Ohio Consumers' Counsel (October 18, 2001); and *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, PUCO Case No. 03-1127-GA-UNC, Reply of The East Ohio Gas Company d/b/a Dominion East Ohio, Columbia Gas of Ohio, Inc., and Vectren Energy Delivery of Ohio to Comments of the Ohio Consumers' Counsel (August 19, 2003).

reject the OCC's improper collateral attack on prior Commission orders and continue to find that the uncollectible expenses riders were properly authorized under Rev. Code § 4929.11.

The OCC states that "R.C. 4929.11 permits the filing of alternative rate plans." OCC Comments at 3. This is incorrect – nothing in the text of Rev. Code § 4929.11 refers to alternative rate plans, let alone authorizes the filing of such plans. What the OCC apparently meant to re-argue was that the Commission may only authorize an automatic adjustment mechanism under Rev. Code § 4929.11, and the OCC referred to its own arguments on this issue in earlier cases involving Pike Natural Gas Company and Eastern Natural Gas Company<sup>3</sup>. The Commission addressed OCC's concerns regarding Rev. Code § 4929.11 in the Pike and Eastern Natural Gas uncollectible expense rider proceedings when it held, "The Commission fully considered the appropriateness of an adjustment for uncollectible expenses in our decision in Case No. 03-1127-GA-UNC and OCC has provided nothing new here that would cause us to not reach a similar conclusion in these proceedings."<sup>4</sup> To dismiss OCC's arguments, the Commission referred to its rationale in Case No. 03-1127-GA-UNC when it held that, "The plain language of [Rev. Code § 4929.11] enables the Commission to consider and implement an adjustment mechanism such as that proposed by the joint applicants for their uncollectible expenses."<sup>5</sup>

After the Pike and Eastern Natural Gas uncollectible expense rider proceedings, the Commission reaffirmed its reliance upon Rev. Code § 4929.11 by approving an additional uncollect-

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<sup>3</sup> OCC Comments at 3.

<sup>4</sup> *In the Matter of the Application of Pike Natural Gas Company for Approval, Pursuant to Section 4929.11, Revised Code of Tariffs to Recover Uncollectible Expenses Pursuant to an Automatic Adjustment Mechanism and for Such Accounting Authority as May Be Required to Defer Uncollectible Expenses for Future Recovery Through Such Adjustment Mechanism*, PUCO Case No. 04-1339-GA-UEX, and *In the Matter of the Application of Eastern Natural Gas Company for Approval, Pursuant to Section 4929.11, Revised Code of Tariffs to Recover Uncollectible Expenses Pursuant to an Automatic Adjustment Mechanism and for Such Accounting Authority as May Be Required to Defer Uncollectible Expenses for Future Recovery Through Such Adjustment Mechanism*, PUCO Case No. 04-1619-GA-UEX, Finding and Order (January 26, 2005) at 5.

<sup>5</sup> *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, PUCO Case No. 03-1127-GA-UNC, Finding and Order (December 17, 2003) at 10.

ible expense rider in Case No. 05-1439-GA-UEx for the Ohio Gas Company.<sup>6</sup> Ohio Gas Company, similar to Pike Natural Gas Company and Eastern Natural Gas Company, was not a party to Case No. 03-1127-GA-UNC, but instead filed a separate application for approval of its uncollectible expense rider. The Commission approved Ohio Gas Company's uncollectible expense rider without OCC intervention. Thus, the Commission has approved all existing uncollectible expense riders pursuant to the authority delegated to it by the General Assembly under Rev. Code § 4929.11. This use of the Commission's statutory authority has been unsuccessfully challenged by the OCC on rehearing and is now the law of the case.

Subsequent to the uncollectible expense rider proceedings, the Commission found "it necessary to clarify the process that must be followed when a company files an application for approval of an automatic adjustment mechanism" under Rev. Code § 4929.11<sup>7</sup>. In Dominion East Ohio's ("DEO") most recent rate case (and related proceedings) the OCC again argued that the Commission may authorize Rev. Code § 4929.11 trackers only within the context of an alternative regulation application. In an Entry on Rehearing dated May 28, 2008, the Commission again rejected the OCC argument and held,

Chapter 4929, Revised Code, permits the Commission to authorize automatic adjustment mechanisms, as they are described in Section 4929.11, Revised Code, but does not specify any particular means of consideration. Although the definition of an alternative rate plan set forth in Section 4929.01, Revised Code, notes that such a plan may include an automatic adjustment mechanism, it does not say the converse: that an automatic adjustment mechanism must be part of an alternative rate plan. The chapter also does not require that such mechanisms always be

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<sup>6</sup> *In the Matter of the Application of Ohio Gas Company for Approval, Pursuant to Section 4929.11, Revised Code, of Tariffs to Recover Uncollectible Expenses Pursuant to an Automatic Adjustment Mechanism and for Such Accounting Authority as May Be Required to Defer Uncollectible Expenses for Future Recovery through Such Adjustment Mechanism*, PUCO Case No. 05-1439-GA-UEx, Entry (January 26, 2006).

<sup>7</sup> *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Recover Certain Costs Associated with a Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause and for Certain Accounting Treatment*, PUCO Case No. 07-829-GA-AIR et al., Entry on Rehearing (May 28, 2008) at 7.

considered together with an application to increase rates, under Section 4909.18, Revised Code.<sup>8</sup>

As the Commission stated above, an automatic adjustment mechanism, is permitted to be approved under Rev. Code § 4929.11. The process by which new applications are to be considered is where the Commission, in the DEO case, departed from its precedent. The Commission held that if an automatic adjustment mechanism is filed as part of an alternative rate plan in accordance with Rev. Code § 4929.05, then it will be considered under the alternative rate plan procedures.<sup>9</sup> The Commission further held that if an automatic adjustment mechanism is not filed as part of an alternative rate plan, then the procedure will depend upon whether the mechanism would result in a rate increase.<sup>10</sup> If rates would increase, the rate increase process language under Rev. Code § 4909.18 would apply.<sup>11</sup> If the rates would not increase, the not for an increase process language under Rev. Code § 4909.18 would apply.<sup>12</sup>

While Columbia disagrees with the Commission's new reading of § 4929.11<sup>13</sup>, the Commission's recent interpretation of the statute should not affect anything but new applications for automatic adjustment clauses. As the Commission prefaced its discussion in the DEO case, the Commission made it clear that it was only clarifying the process that must be followed when a company files an application for approval of an automatic adjustment mechanism under Rev. Code § 4929.11. Nothing in the DEO case applies to automatic adjustment clauses previously authorized by the Commission. Moreover, the Commission has repeatedly followed the procedures it established in Case No. 03-1127-GA-UNC by approving seven uncollectible expense riders and approving periodic adjustments to those existing uncollectible expense riders, includ-

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 8-9.

<sup>13</sup> Columbia continues to believe that applications may be filed under Rev. Code § 4909.18 independent of any filing under Rev. Code § 4909.18 or § 4929.05.

ing approvals after May 28, 2008, the date of the Entry on Rehearing in the DEO case.<sup>14</sup> The approved uncollectible expense riders for Columbia, Vectren Energy Delivery of Ohio, Inc., DEO, Northeast Ohio Natural Gas Corp., Pike Natural Gas Company, Eastern Natural Gas Company, and Ohio Gas Company were approved by the Commission prior to the DEO ruling, and therefore, are still in effect and remain unchanged.<sup>15</sup>

For the reasons stated above, the Commission should continue to permit gas utilities to recover uncollectible expenses through periodic adjustments to their approved uncollectible expense trackers.

**2. The Commission has implemented safeguards into the uncollectible expense rider and review process, to protect residential customers from over recovery under the mechanism.**

As part of its argument against automatic adjustment clauses approved under Rev. Code § 4929.11 the OCC argues that, “the continued automatic adjustment of an uncollectible rider permits a rate increase to residential customers without the safeguards of the rate case process.”<sup>16</sup> The OCC conveniently overlooks the fact that the Commission has instituted guidelines and

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<sup>14</sup> See PUCO Case Nos. 08-0561-GA-UEX, 08-0562-GA-UEX, 08-0564-GA-UEX, 08-0597-GA-UEX, 08-0653-GA-UEX, and 08-0655-GA-UEX.

<sup>15</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Proposed Tariff Revisions to Recover Uncollectible Expenses*, PUCO Case No. 03-2572-GA-ATA, Entry (April 7, 2004); *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of Proposed Tariff Revisions to Recover Uncollectible Expenses*, PUCO Case No. 03-2571-GA-ATA, Entry (April 7, 2004); *In the Matter of the Application of The East Ohio Gas Company, d.b.a. Dominion East Ohio for Approval of Proposed Tariff Revisions to Recover Uncollectible Expenses*, PUCO Case No. 03-2573-GA-ATA, Entry (March 17, 2004); *In the Matter of the Application of Northeast Ohio Natural Gas Corp. for Approval of an Uncollectible Expense Rider*, PUCO Case No. 04-964-GA-UEX, Opinion and Order (November 10, 2004); *In the Matter of the Application of Pike Natural Gas Company for Approval, Pursuant to Section 4929.11, Revised Code of Tariffs to Recover Uncollectible Expenses Pursuant to an Automatic Adjustment Mechanism and for Such Accounting Authority as May Be Required to Defer Uncollectible Expenses for Future Recovery Through Such Adjustment Mechanism*, PUCO Case No. 04-1339-GA-UEX, Finding and Order (January 26, 2005); *In the Matter of the Application of Eastern Natural Gas Company for Approval, Pursuant to Section 4929.11, Revised Code of Tariffs to Recover Uncollectible Expenses Pursuant to an Automatic Adjustment Mechanism and for Such Accounting Authority as May Be Required to Defer Uncollectible Expenses for Future Recovery Through Such Adjustment Mechanism*, PUCO Case No. 04-1619-GA-UEX, Finding and Order (January 26, 2005); and *In the Matter of the Application of Ohio Gas Company for Approval, Pursuant to Section 4929.11, Revised Code, of Tariffs to Recover Uncollectible Expenses Pursuant to an Automatic Adjustment Mechanism and for Such Accounting Authority as May Be Required to Defer Uncollectible Expenses for Future Recovery through Such Adjustment Mechanism*, PUCO Case No. 05-1439-GA-UEX, Entry (January 26, 2006).

<sup>16</sup> OCC Comments at 3.

safeguards to monitor and oversee the implementation of uncollectible expense riders.<sup>17</sup> The Commission individually reviews and approves all uncollectible expense riders, which define the percentage range the rider rate may increase or decrease.<sup>18</sup> For the rider rate to increase or decrease beyond the parameters specified in the rider, the utilities must file an additional application with the Commission for approval of the adjustment.<sup>19</sup> The Commission also requires utilities to annually file a report identifying the amounts recovered, deferred, and, if applicable, amortized pursuant to the uncollectible expense rider.<sup>20</sup> The Commission requires utilities with an approved uncollectible expense rider to provide the Commission with an annual audit report prepared by an external auditor, and to provide data, upon request, to the Staff and OCC so that they too may audit the amounts, validate such amounts, and determine whether the adjustments were made in accordance with the rider's parameters.<sup>21</sup> Of course, the OCC has a right to move to intervene in any individual case in which it believes that the amount of a proposed adjustment to an uncollectible expense rider is in some respect incorrect or unreasonable.

The Commission's oversight in the rider approval process and the rider recovery rate adjustment process evidences the multiple safeguards in place to protect consumers. This oversight process must be considered satisfactory because the OCC chose not to intervene in several of the uncollectible expense rider approval proceedings. Therefore, the OCC's contention that the uncollectible expense riders lack oversight and monitoring is without merit.

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<sup>17</sup> *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, PUCO Case No. 03-1127-GA-UNC, Finding and Order (December 17, 2003) ¶ 12.

<sup>18</sup> *Id.* at 15.

<sup>19</sup> *Id.* at 13.

<sup>20</sup> *Id.* at 13.

<sup>21</sup> *Id.* at 14.

**3. Requiring annual uncollectible expense rider filings for each gas company may create unnecessary administrative burdens.**

The OCC suggests that the Commission should require annual filings of each gas utility in order to consider adjustments to the uncollectible expense riders.<sup>22</sup> While Columbia has no strong objection to the OCC proposal, Columbia questions the necessity of such an approach. Under the Commission's current guidelines, utilities annually review their uncollectible expenses and file an application to adjust their uncollectible expense trackers only if the tracker is over recovering or under recovering uncollectible expenses by 10% or more. The uncollectible expense experience of each gas utility is likely to differ, and there may be years when individual gas companies are within the 10% tolerance range and have no need to request an adjustment to their uncollectible expense trackers. In such instances, there should be no need to burden the utility, the Commission and possible intervenors with a tracker review proceeding. This is particularly so in light of the fact that the Commission receives annual reports from the utilities detailing the amounts recovered, deferred, and amortized pursuant to the approved uncollectible expense mechanisms.

The OCC suggests that utilities will file for uncollectible expense tracker adjustments only when the rider rate increases.<sup>23</sup> This suggestion is overly skeptical because under the Commission's guidelines a gas utility should file an adjustment to decrease its rider rate if it is over-recovering its uncollectible expenses by more than 10%, and, in fact, Columbia has filed such tracker reduction applications. Columbia requested *decreases* to its uncollectible expense rider rate twice, in Case Nos. 05-597-GA-UEX and 07-0499-GA-UEX.<sup>24</sup> The Commission approved

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<sup>22</sup> OCC Comments at 4.

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

<sup>24</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Adjustment to its Uncollectible Expense Rider Rate*, PUCO Case No. 05-597-GA-UEX, Application (May 2, 2005); *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Adjustment to its Uncollectible Expense Rider Rate*, PUCO Case No. 07-499-GA-UEX, Application (April 27, 2007).



both of these rate decreases and found them to be reasonable.<sup>25</sup> Contrary to OCC's assertion that utilities only request rider rate increases, Columbia's precedent proves this OCC concern to be unwarranted.

**B. An Analysis of the SFV Rate Design is not a Necessary Part of a Discussion of Uncollectible Expense Riders.**

OCC requests that Staff "endeavor to include an analysis of the impact of the SFV rate design decision on other gas utility functions where applicable. It is clearly applicable in a discussion of the UEX rider."<sup>26</sup> Columbia disagrees. The OCC opposed the adoption of the Straight Fixed Variable ("SFV") rate design in several rate cases over the last year<sup>27</sup>, and it is obvious that the OCC is attempting to again reargue its position against SFV. To the extent that the Commission believes it appropriate to study the impact of the SFV rate design, it should do so in base rate proceedings, or in studies associated with base rate proceedings. But, an application to adjust an uncollectible expense rider is not the appropriate proceeding in which to study the broad range of impacts of various rate designs.

**C. Staff and OCC Reviewed the Gas Companies' Credit and Collection Policies Pursuant to the Order in Case No. 03-1127-GA-UNC.**

OCC contends that the Staff Report's section discussing credit and collection policies failed to "actually discuss, review or analyze any credit and collection policy of any of the Gas

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<sup>25</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Adjustment to its Uncollectible Expense Rider Rate*, PUCO Case No. 05-597-GA-UEX, Entry (June 1, 2005); *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Adjustment to its Uncollectible Expense Rider Rate*, PUCO Case No. 07-499-GA-UEX, Entry (May 24, 2007).

<sup>26</sup> OCC Comments at 5.

<sup>27</sup> See e.g., the proceedings in the following two cases: *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service*, PUCO Case No. 07-829-GA-AIR, and *In the Matter of the Application of Vectren Energy Delivery of Ohio for Authority to Increase Rates for its Gas Distribution Service*, PUCO Case No. 07-1080-GA-AIR.

Companies.”<sup>28</sup> OCC, however, has already received these procedures, as required by the Order in Case No. 03-1127-GA-UNC, where the Commission held,

The companies shall provide credit and collection policies and procedures to staff and OCC within 60 days after Commission approval of the rider. The companies will notify staff and OCC thereafter of any changes in those policies and procedures. The companies will meet with staff and/or OCC to review credit and collection policies and procedures upon request, and will work in good faith to address issues raised by staff or OCC.<sup>29</sup>

Pursuant to this Order, Staff reviewed the credit and collection procedures. OCC, at that time, also was provided the opportunity to discuss, review and analyze any of the credit and collection policies of the utilities. Moreover, the OCC’s offer to “help the Commission review and analyze the credit and collection policies” and its suggestion that “the Commission schedule a workshop to initiate such a dialogue between interest parties,” is unnecessary. The Commission and interested parties, including the OCC, have recently devoted considerable resources to reviewing and revising credit and collection rules in Case No. 08-723-AU-ORD, and the devotion of any additional resources to rehash these issues at this time would not be productive.

### III. CONCLUSION

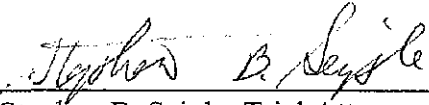
For the reasons discussed above, the Commission should reject that part of the OCC’s Comments in which the OCC suggests that utilities should not continue to be authorized to adjust existing uncollectible expense riders to reflect changes in uncollectible expense experience. Columbia agrees with the recommendations in the Staff’s Report, and urges the Commission to adopt the Staff’s Report and to approve the continuance of the uncollectible expense rider mechanism.

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<sup>28</sup> OCC Comments at 5-6.

<sup>29</sup> *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, PUCO Case No. 03-1127-GA-UNC, Finding and Order (December 17, 2003) at 15.

Respectfully submitted by  
**COLUMBIA GAS OF OHIO, INC.**

A handwritten signature in cursive script, reading "Stephen B. Seiple", is positioned above a horizontal line.

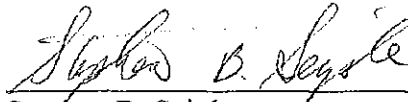
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply Comments of Columbia Gas of Ohio, Inc., to the Comments of the Office of the Ohio Consumers' Counsel was served upon all parties of record by regular U.S. mail this 2<sup>nd</sup> day of April, 2009.



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