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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Commission's)
Review of Chapters 4901:1-17 and 4901:1-18)
and Rules 4901:1-5-07, 4901:1-10-22,)
4901:1-13-11, 4901:1-15-17, 4901:1-21-14, and)
4901:1-29-12 of the Ohio Administrative Code.)

Case No. 08-723-AU-ORD PUCO

MOTION TO STRIKE
OF COLUMBIA GAS OF OHIO, INC.

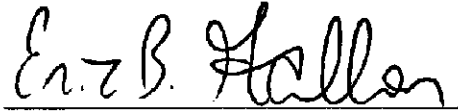
Columbia Gas of Ohio, Inc. ("Columbia") hereby moves to strike as untimely the Memorandum Contra Columbia Gas of Ohio Inc.'s Application for a Waiver ("Memo Contra") filed in this proceeding by the Office of the Ohio Consumers' Counsel ("OCC").

When Columbia filed its Application for a Waiver ("Application") on August 25, 2009, it requested an expedited ruling. Any memorandum opposing that Application was due seven days after the service of Columbia's Application. See Rule 4901-1-12(C), O.A.C. Three days was added to the prescribed response period because Columbia served its Application by mail. See Rule 4901-1-07(B), O.A.C. Accordingly, any memorandum contra Columbia's Application was due by September 4, 2009. OCC filed its Memo Contra on September 14, 2009.

Because OCC filed its Memo Contra ten days past the deadline for filing a memorandum contra Columbia's Application, and did not seek an extension under Rule 4901-1-13, O.A.C., Columbia respectfully requests that the Public Utilities Commission of Ohio ("Commission") strike or disregard OCC's Memo Contra. A Memorandum in Support of this Motion is attached.

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Respectfully submitted by
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MEMORANDUM IN SUPPORT

On April 1, 2009, the Commission issued revisions to Chapters 4901:1-17 and 4901:1-18 of the Ohio Administrative Code. Chapter 4901:1-17 contains the Commission's rules for establishing credit for residential public utility service. Chapter 4901:1-18 contains the rules for termination of residential service.

On June 3, 2009, the Commission issued an entry stating that the revisions to Chapters 4901:1-17 and 4901:1-18 would be effective on November 1, 2010. On August 25, 2009, Columbia submitted an Application for a Waiver. Columbia's Application seeks the Commission's permission to implement six of the non-PIPP-related revisions to Chapters 4901:1-17 and 4901:1-18 in advance of the November 1, 2010 effective date. Columbia seeks to implement four of those revisions, including the Commission's new rules creating a "one-ninth" extended payment plan (*see* New Rule 4901:1-18-05(B)(2), O.A.C.), on October 1, 2009. In order to ensure that Columbia will have sufficient time to implement those four rule revisions after the Commission rules on Columbia's Application, Columbia requested an expedited ruling. *See* Application at 1 and 9. Columbia did not certify that the parties to this proceeding did not object to the Commission's issuance of an expedited ruling without the filing of memoranda.

Under the Commission's rules, the parties to this proceeding were required to file any memorandum contra Columbia's application "within seven days after the service of [the Application.]" Rule 4901-1-12(C), O.A.C. Because Columbia served its Application by mail, three days was added to the period of time provided for response. *See* Rule 4901-1-07(B). Accordingly, any memorandum contra Columbia's Application was due ten days after Columbia served its Application, or September 4. OCC filed its response¹ on September 14, 2009.

¹ Although styled a "Memorandum Contra," OCC states that it "does not oppose the early implementation of several of the rules, as requested by Columbia." OCC Memo Contra at 4.

OCC's Memorandum Contra Columbia's Application is untimely. The Memo Contra was filed ten days past the deadline set by the Commission's rules. OCC did not request an extension in its response date, as permitted by Rule 4901-1-13, O.A.C. And, as indicated above, time is of the essence in this matter. The early implementation date that Columbia is requesting for four of the Commission's revisions to Chapters 4901:1-17 and 4901:1-18 – October 1, 2009 – is only two weeks away.

For these reasons, Columbia respectfully requests that the Commission strike or otherwise disregard OCC's Memo Contra. *See, e.g., In the Matter of the Complaint of the Northeast Ohio Public Energy Council v. Ohio Edison Co. et al.*, Case No. 09-423-EL-CSS, Entry (July 8, 2009) at ¶5 (holding that the Commission would not consider memoranda, addressing a motion on which the movant had requested an expedited ruling, that were filed more than seven days after service of that motion); *cf. In the Matter of the Joint Application of Cincinnati Bell Telephone Company and Cincinnati Bell Long Distance For a Waiver of Certain of the Commission's Local Service Guidelines*, Case No. 99-1496-TP-UNC, Entry on Rehearing (Apr. 27, 2000) at ¶5 (holding that the Commission would not consider arguments made in an untimely-filed memorandum in opposition to an application for rehearing); *In the Matter of the Complaint of Westside Cellular, Inc., dba Cellnet, v. GTE Mobilnet Inc.*, Case No. 93-1758-RC-CSS, Entry (Mar. 23, 1995) at ¶6 (granting a motion to strike a memorandum contra an application for interlocutory review that was not timely filed).

Respectfully submitted by
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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2009, true and accurate copies of the foregoing Motion to Strike of Columbia Gas of Ohio, Inc. were served by e-mail upon counsel for the OCC and by First-Class United States Mail, postage prepaid, upon the following parties:

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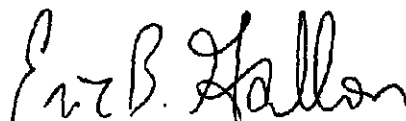
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