

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Ohio American Water Company To )  
Increase Its Rates for Water and Sewer ) Case No. 09-391-WS-AIR  
Service Provided to Its Entire Service )  
Area. )

PUCO

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MOTION FOR  
SUBPOENA *DUCES TECUM*

Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, pursuant to Ohio Adm. Code 4901-1-25, hereby respectfully moves the Public Utilities Commission of Ohio ("Commission" or "PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena *duces tecum* compelling Ohio American Water Company (OAW or Company) to produce a witness(es) to appear at the hearing for cross-examination on Wednesday, January 27, 2010, at 10:00a.m., at the offices of the PUCO, 180 East Broad Street, 11th floor, Hearing Room 11-A, Columbus, Ohio 43215-3793, and attend from day-to-day until the hearing is completed to provide testimony concerning the OAW's special contracts, main extension contracts, and all other service contracts and the Cost of Service Studies and Rate Design proposed by the OAW in its application filed on June 8, 2009 in the above-captioned case. The subpoena should also compel the witness(es) to bring with him/her, and provide to OCC at 9:30 a.m. on said day and at said place, the following: 1) All special contracts, main extension contracts and all other service contracts; 2) all documents in the possession or control of OAW that contain any information regarding the terms of each contract listed above; 3) all documents in the possession or control of OAW that contain any information relating

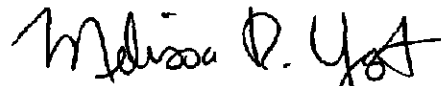
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to PUCO approval of any of the special contracts listed above; 4) all documents in the possession or control of OAW containing correspondence related to the contracts listed above; 5) the Rate Design proposal for OAW related to this proceeding that was authored by Mr. Herbert; 6) all documents in the possession or control of OAW that contain any information regarding the Rate Design by Mr. Herbert related to this proceeding; 7) all documents in the possession or control of OAW that contain any information regarding the Cost of Services Studies by Mr. Herbert related to this proceeding; and 8) all documents in the possession or control of OAW containing correspondence related to the cost of service studies and/or rate design for OAW in this proceeding. The period of time covered by the aforementioned materials should begin on January 1, 2008, and continue to the date of the cross-examination.

Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



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Melissa R. Yost, Counsel of Record  
Michael E. Idzkowski  
Assistant Consumers' Counsel

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Ohio American Water Company To	)	
Increase Its Rates for Water and Sewer	)	Case No. 09-391-WS-AIR
Service Provided to Its Entire Service	)	
Area.	)	

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**MEMORANDUM IN SUPPORT**

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The Office of the Ohio Consumers' Counsel ("OCC") requests a subpoena *duces tecum*, pursuant to Ohio Adm. Code 4901-1-25, to command Ohio American Water Company to provide a person(s) to appear at the hearing (witness) scheduled for Wednesday, January 27, 2010, to submit to cross-examination by OCC in this proceeding until completed. OCC requests that the witness(es) be knowledgeable regarding OAW's special contracts, main extension contracts, and all other service contracts. The witness's knowledge should include, but not be limited to, information regarding the special contracts between OAW and 1) Whirlpool Corporation; 2) US Yachiyo, Inc.; 3) Marion Ethanol, LLC, d/b/a POET Biorefining; and 4) Ashtabula County, Ohio (Aqua). The witness(es) should also be knowledgeable regarding the Rate Design and Cost of Service Studies relevant to the application filed on June 8, 2009.

OCC is requesting that the OAW be compelled to produce a witness who can testify to the terms of the special contracts with OAW. OAW witnesses that were deposed by OCC were unable to provide answers to all of OCC's questions relating to the special contracts listed above. Additional information is necessary in order for OCC to fully present its

position that OAW's residential water customers should not subsidize OAW's special contract customers.

A central part of this case is the Commission findings regarding the Cost of Service Studies and the Rate Design. Additional information is needed in order to fully litigate those issues. OCC's Motion for Subpoena *Duces Tecum* should be granted in order to facilitate a full and complete development of the case before the Commission, including the ultimate record upon which the Commission will base its decision.

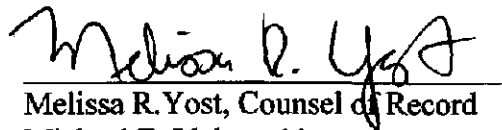
Additionally, the OCC requests the PUCO to command the witness(es) to bring with him/her, for delivery to OCC at 9:30 a.m. on said day and at said place, the following:

- 1) All special contracts, main extension contracts and all other service contracts; 2) all documents in the possession or control of OAW that contain any information regarding the terms of each contract listed above; 3) all documents in the possession or control of OAW that contain any information relating to PUCO approval of any of the special contracts listed above; 4) all documents in the possession or control of OAW containing correspondence related to the contracts listed above; 5) the Rate Design proposal for OAW related to this proceeding that was authored by Mr. Herbert; 6) all documents in the possession or control of OAW that contain any information regarding the Rate Design by Mr. Herbert related to this proceeding; 7) all documents in the possession or control of OAW that contain any information regarding the Cost of Services Studies by Mr. Herbert related to this proceeding; and 8) all documents in the possession or control of OAW containing correspondence related to the cost of service studies and/or rate design for OAW in this proceeding. The period of time covered by the aforementioned materials should begin on January 1, 2008, and continue to the date of the examination.

This information is central to understanding and addressing the Cost of Service Studies and Rate Design included in OAW's application to increase its rates for water and sewer service in its entire service territory. Therefore, OCC moves the Commission to issue the requested *duces tecum* subpoena, in order to facilitate a thorough cross-examination and create a complete record on the issues in this case.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



Melissa R. Yost, Counsel of Record

Michael E. Idzkowski

Assistant Consumers' Counsel

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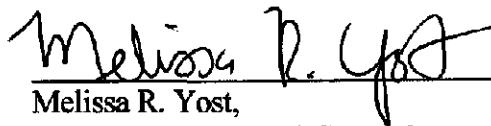
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Motion for Subpoena *Duces Tecum*, was served by regular U.S. Mail on the persons listed below this 22<sup>nd</sup> day of January, 2010.

  
Melissa R. Yost,  
Assistant Consumers' Counsel

**SERVICE LIST**

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**STATE OF OHIO  
PUBLIC UTILITIES COMMISSION  
180 EAST BROAD STREET  
COLUMBUS, OHIO 43215-3793**

Ted Strickland  
GOVERNOR



**THE PUBLIC UTILITIES COMMISSION OF OHIO  
SUBPOENA**

**TO:** Ohio-American Water Company  
365 East Center Street  
Marion, Ohio 43302

Upon application of Counsel for the Office of the Ohio Consumers' Counsel (OCC), Ohio American Water (OAW) is hereby required to provide a person(s) to appear before the Public Utilities Commission of Ohio ("Commission") as a witness for OCC at hearing and attend day-to-day and submit to oral testimony by cross examination until completed for OCC in the following proceeding: "In the Matter of the Application of Ohio American Water Company To Increase Its Rates for Water and Sewer Service Provided to Its Entire Service Area," Case No. 09-391-WS-AIR. The witness(es) is to appear at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room 11-A, Columbus, Ohio 43215-3793 on Wednesday, January 27, 2010, at 10:00 a.m. The witness(s) shall be knowledgeable regarding OAW's special contracts, main extension contracts and all other service, contracts. The witness should have knowledge including, but not limited to, the special contracts between OAW and: 1) Whirlpool Corporation; 2) US Yachiyo, Inc.; 3) Marion Ethanol, LLC, d/b/a POET Biorefining; and 4) Ashtabula County, Ohio (Aqua). The witness(s) shall also be knowledgeable regarding the Rate Design and Cost of Service Studies regarding the application filed on June 8, 2009. The witness(es) shall

bring with him/her the following to be provided to OCC at 9:30 a.m. on said day and at said place: 1) All special contracts, main extension contracts and all other service contracts; 2) all documents in the possession or control of OAW that contain any information regarding the terms of each contract listed above; 3) all documents in the possession or control of OAW that contain any information relating to PUCO approval of any of the special contracts listed above; 4) all documents in the possession or control of OAW containing correspondence related to the contracts listed above; 5) the Rate Design proposal for OAW related to this proceeding that was authored by Mr. Herbert; 6) all documents in the possession or control of OAW that contain any information regarding the Rate Design by Mr. Herbert related to this proceeding; 7) all documents in the possession or control of OAW that contain any information regarding the Cost of Services Studies by Mr. Herbert related to this proceeding; and 8) all documents in the possession or control of OAW containing correspondence related to the cost of service studies and/or rate design for OAW in this proceeding. The period of time covered by the aforementioned materials should begin on January 1, 2008, and continue to the date of the examination.

Dated at Columbus, Ohio, this 22 day of January 2010.

BY: P. J. Hoff

TITLE: Legal Director

**NOTICE:** If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.