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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)
of Chapter 4901:1-13 of the Ohio) Case No. 09-326-GA-ORD
Administrative Code.)

**MEMORANDUM CONTRA
COLUMBIA GAS OF OHIO, INC.'S APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
THE NEIGHBORHOOD ENVIRONMENTAL COALITION, THE
EMPOWERMENT CENTER OF GREATER CLEVELAND,
CLEVELAND HOUSING NETWORK, THE CONSUMERS
FOR FAIR UTILITY RATES AND OHIO POVERTY LAW CENTER**

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Larry S. Sauer, Counsel of Record
Joseph P. Serio
Richard C. Reese
Assistant Consumers' Counsel

The Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 – Telephone
(614) 466-9475 – Facsimile
sauer@occ.state.oh.us
serio@occ.state.oh.us
reese@occ.state.oh.us

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Joseph P. Meissner
The Legal Aid Society of Cleveland
1223 West 6th Street
Cleveland, Ohio 44113
(216) 687-1900 ext. 5672 – Telephone
jmeissn@lasclev.org

Counsel for:
Neighborhood Environmental Coalition,
Consumers for Fair Utility Rates,
Cleveland Housing Network, and
The Empowerment Center of Greater
Cleveland

Michael Smalz
Attorney at Law
Ohio State Legal Services Association
555 Buttles Avenue
Columbus, Ohio 43215
(614) 221-7201 – Telephone
(614) 221-7625 – Facsimile

September 7, 2010

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)
of Chapter 4901:1-13 of the Ohio)
Administrative Code.) Case No. 09-326-GA-ORD

**JOINT MEMORANDUM CONTRA
COLUMBIA GAS OF OHIO INC.'S APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
THE NEIGHBORHOOD ENVIRONMENTAL COALITION, THE
EMPOWERMENT CENTER OF GREATER CLEVELAND,
CLEVELAND HOUSING NETWORK, THE CONSUMERS
FOR FAIR UTILITY RATES AND OHIO POVERTY LAW CENTER**

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC"), the Neighborhood Environmental Coalition, the Empowerment Center of Greater Cleveland, the Cleveland Housing Network, and the Consumers for Fair Utility Rates ("Citizens Coalition") and the Ohio Poverty Law Center ("OPLC")¹ (collectively "Consumer Advocates") in the interest of the residential natural gas consumers of Ohio, files this Memorandum Contra.² The Consumer Advocates recommend denial of the Application for Rehearing filed by Columbia Gas of Ohio Inc. ("Columbia" or "COH") regarding the July 29, 2010 Finding and Order ("Order") of the Public Utilities Commission of Ohio ("Commission" or "PUCO"). Columbia's Application for Rehearing should be denied to protect consumers from unreasonable delays in crediting their accounts for payments made.

¹ Formerly Ohio State Legal Services Association ("OSLSA").

² Ohio Adm. Code 4901-1-35(B).

II. PROCEDURAL HISTORY

On April 15, 2009, the Commission initiated this proceeding. In its April 22, 2009 Entry ("Entry"), the Commission issued revisions that the PUCO Staff proposed with respect to the Minimum Gas Service Standards ("MGSS") rules, Ohio Adm. Code Chapter 4901:1-13. The MGSS rules are intended to promote reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices.³

On May 22, 2009, OCC and Ohio State Legal Services Association ("OSLSA") jointly filed Comments. On the same day, East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion") and Vectren Energy Delivery of Ohio, Inc. ("Vectren") ("Dominion/Vectren") jointly filed their Comments. Also, the Ohio Home Builders Association, Inc. ("OHBA") and Columbia Gas of Ohio, Inc. ("Columbia") each filed Comments.

On June 8, 2009, Reply Comments were filed jointly by OCC and OSLSA, by Duke Energy Ohio, Inc. ("Duke"), Ohio Gas Marketers Group ("OGMG") and jointly by Dominion/Vectren.

On July 29, 2010, the Commission issued its Order. It is from this Order that, on August 27, 2010, Columbia filed its Application for Rehearing. The Consumer Advocates herein reply to the Company's arguments.

³ Ohio Adm. Code 4901:1-13-02(A)(2).

III. ARGUMENT

A. The Commission's Order Did Not Unreasonably Amend Ohio Adm. Code 4901:1-13-11(E)(3).

In its Order, the PUCO amended Ohio Adm. Code 4901-1-13-11(E)(3) by requiring Gas Companies that receive payments at their business office or at an authorized agent, to immediately credit the payment to the customer's account.⁴ The Rule, prior to the revision provided:

when a customer pays the bill at a company's business office or to an authorized agent, the payment shall be immediately credited to the customer's account. Furthermore, the paragraph allows that, when a customer pays the bill through the mail, over the phone, by credit card, or electronically, the payment shall be credited immediately, when feasible, and, in any event, within two business days.⁵

Consumer Advocates argued in Comments that this rule should be revised to require that, regardless of how the payment is made, the payment should always be credited immediately.⁶ The Commission considered Consumer Advocates concerns. However, Columbia disagrees with the Commission's Order modifying the rule. Columbia argues against the Commission's amendment to Ohio Adm. Code 4901:1-13-11(E)(3) because the Company alleges this revision makes the rule more confusing⁷ and "until this proceeding, gas companies relied upon the second sentence of Rule 4901:1-13-11(E)(3) to establish deadlines to process payments."⁸ Finally, the Company argues:

Under the newly adopted rules, Columbia would be required to renegotiate its service contract with the third party, **potentially**

⁴ Order at 59-60.

⁵ Ohio Adm. Code 4901:1-13-11(E)(3).

⁶ Consumer Advocates Comments at 35.

⁷ Columbia Application for Rehearing at 5.

⁸ Columbia Application for Rehearing at 6.

incurring significant costs. Because of this additional expense, Columbia suggests the Commission revise its rule so that utilities will have one business day to credit amounts to the customer accounts.⁹

Columbia is wrong, the revision reduces confusion, does not increase it. In addition, the Company stated the original rule established deadlines to process payments, yet Columbia recommends reducing the current deadline from two days to one day, without substantiating why a one day delay is reasonable. Finally, Columbia fails to provide any data in support of its allegation that there could be potential cost increases as a result of the Commission's modification to the MGSS rule.

In its Order, the Commission found that the sentence that was deleted was confusing and was deleted in order to eliminate any confusion as to when payments should be credited.¹⁰ The Commission's Order is consistent with prior PUCO rulemakings in which preventing confusion was a motivating factor in the Commission's decision to modify its rules.¹¹ Furthermore, the Commission's Order follows Governor Strickland's Executive Order 2008-04S -- Implementing Common Sense Business

⁹ Columbia Application for Rehearing at 6 (emphasis added).

¹⁰ Order at 59.

¹¹ *Re Amended Substitute Senate Bill No. 221*, Case No. 08-777-EL-ORD, Entry at 2-3 (March 18, 2009) (changing waiver language in Chapter 4901:1-35, 36, 37, and 38 because approved language was confusing). See also; *Re Minimum Telephone Service Standards*, Case No. 05-1102-TP-ORD, Opinion and Order at 3 (February 7, 2007) (eliminating prefatory language in order to avoid confusion regarding adequacy of service standards). See also; *Re Rules of the Ohio Administrative Code to Implement Sections 4905.261 and 4911.021*, Case No. 05-1350-AU-ORD, Entry on Rehearing at 9 (January 4, 2006) (defining the term "consumer complaint" in each of rules in order to avoid the confusion of differing definitions). See also; *Re Revision and Rescission of Rules Under Chapters 4901:5-25 and 4901:1-13*, Ohio Administrative Code, Case No. 91-1992-GA-ORD, Entry (November 24, 1993) (noting that one of the primary motivations in revising 4901:1-13 was to have one set of rules to deal with gas shortage problems and gas emergency and to do away with any conflicts or confusion by having two sets of rules concerning gas shortage problems).

Regulation,¹² and is consistent with the Joint Committee on Agency Review's ("JCARR") procedures manual which states that administrative rules should be drafted in manner that provides clarity and understandability.¹³

Furthermore, the Commission noted in support of its decision to modify the MGSS rule, that the rule change made the MGSS requirement consistent with the electric service standards requirement contained in Ohio Adm. Code 4901:1-10-22(E).¹⁴

The Commission recognized the importance of timeliness for the natural gas companies' to credit customers' accounts immediately upon customers' payment of their bills. This principle of customer protection outweighs the argument based upon an unsubstantiated cost increase as alleged by Columbia. Therefore, the Commission should deny Columbia's Application for Rehearing on this important consumer issue.

IV. CONCLUSION

The Commission should uphold its Order and deny Columbia's Application for Rehearing, in the interest of ensuring the prompt crediting of customer accounts to reflect bill payments by Ohio utility customers.

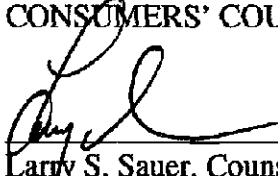
¹² <http://governor.ohio.gov/Portals/0/Executive%20Orders/Executive%20Order%202008-04S.pdf> ("All proposed rules submitted to JCARR should be written so that they are easy to comprehend. Specialized terms that are familiar to and used by specialists in their field must be defined and/or simplified so that they can be understood by a non-specialist reader of the rule. Duplication of rules already in existence is to be avoided.").

¹³ See also JCARR Procedures Manual at 15 (Part VI titled "Review Procedures after Rules Are Filed") (January, 2010) ("The rules should provide clarity of wording so that the affected public is able to understand the rules. There should also be adequate specificity in delineating the procedures to be followed and the standards with which to adhere.").

¹⁴ Order at 60.


Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



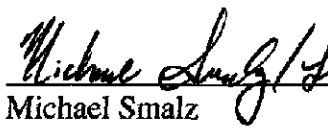
Larry S. Sauer, Counsel of Record
Joseph P. Serio
Richard C. Reese
Assistant Consumers' Counsel

The Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 – Telephone
(614) 466-9475 – Facsimile
sauer@occ.state.oh.us
serio@occ.state.oh.us
reese@occ.state.oh.us

 / *for electronic authorization*

Joseph P. Meissner
The Legal Aid Society of Cleveland
1223 West 6th Street
Cleveland, OH 44113
(216) 687-1900 ext. 5672 – Telephone
jmeissn@lasclev.org

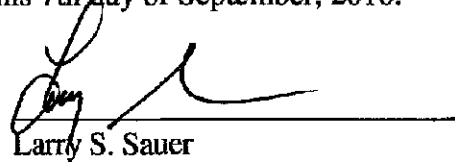
Counsel for:
Neighborhood Environmental Coalition,
Consumers for Fair Utility Rates,
Cleveland Housing Network, and
The Empowerment Center of Greater
Cleveland

 / *for electronic authorization*
Michael Smalz
Attorney at Law

Ohio Poverty Law Center
555 Buttles Avenue
Columbus, Ohio 43215
(614) 221-7201 – Telephone
(614) 221-7625 – Facsimile

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Consumer Advocate's Memorandum Contra Columbia's Application for Rehearing* was served by regular U.S. Mail Service, postage prepaid, to the following parties of record, this 7th day of September, 2010.



Larry S. Sauer
Assistant Consumers' Counsel

SERVICE LIST

WILLIAM WRIGHT

Assistant Attorney General
Chief, Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215-3793
william.wright@puc.state.oh.us

LISA G. McALISTER

JOSEPH M. CLARK
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215-4228
jmcalker@mwncmh.com
jclark@mwncmh.com

Attys. for Ohio Gas Company

MARK A. WHITT

JOEL E. SECHLER
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
whitt@carpenterlipps.com
sechler@carpenterlipps.com

*Attys. for Dominion East Ohio and Vectren
Energy Delivery of Ohio, Inc.*

STEPHEN B. SEIPLE

DANIEL A. CREEKMUR
Columbia Gas of Ohio, Inc.
200 Civic Center Drive, P.O. Box 117
Columbus, Ohio 43216-0117
sseiple@nisource.com
dcreekmur@nisource.com

THOMAS L. FROEHLE

McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215-4228
tfroehle@mwncmh.com

Atty. for Ohio Home Builders Association

M. HOWARD PETRICOFF

STEPHEN M. HOWARD
MICHAEL J. SETTINERI
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
mhpetricoff@vorys.com
smhoward@vorys.com
mjsettineri@vorys.com

Attys. for Ohio Gas Marketers Group

ELIZABETH H. WATTS

ROCCO O. D'ASCENZO

AMY B. SPILLER

Duke Energy Ohio

139 East Fourth Street

P.O. Box 960

Cincinnati, OH 45201-0960

elizabeth.watts@duke-energy.com

rocco.dascenzo@duke-energy.com

amy.spiller@duke-energy.com