

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Columbia Gas of Ohio, Inc. for Approval of	)	Case No. 11-5515-GA-ALT
an Alternative Form of Regulation.	)	

---

**OHIO PARTNERS FOR AFFORDABLE ENERGY'S  
MEMORANDUM CONTRA MOTION TO STRIKE**

---

Ohio Partners for Affordable Energy ("OPAE") hereby respectfully submits to the Public Utilities Commission of Ohio ("Commission") this memorandum contra the motion to strike filed by Columbia Gas of Ohio, Inc. ("Columbia") on January 13, 2012. Columbia seeks to have OPAE's January 11, 2012 Reply ("Reply") stricken on the basis that the Reply is to the January 6, 2012 memorandum contra of the Office of the Ohio Consumers' Counsel ("OCC") but does not oppose OCC's position. Therefore, according to Columbia, the Reply is improper.

Columbia's basis to strike OPAE's Reply is without merit and should be rejected. First, Columbia argues that replies to memorandum contra must be contrary to the memorandum contra. Contrary to Columbia's argument, Rule 4901-1-12(B)(2) simply states that any party may file a reply memorandum; it does not state that any party may file a reply memorandum but only if the reply is contrary to the memorandum contra. The Commission could have provided that a reply must be contrary, but it did not. OPAE replied to the memorandum contra exactly as the rule provides. Moreover, Columbia's reference to Rule 4901-1-35 is irrelevant because Rule 4901-1-35 concerns applications for rehearing where no reply to memorandum contra is allowed at all.

Columbia also argues that OPAE should have joined OCC's memorandum contra filed on January 6, 2012. OPAE intervened in this proceeding on January 5, 2012 and had no notice that OCC intended to file a memorandum contra. OPAE had no opportunity to join OCC's memorandum contra.

Moreover, OCC's memorandum contra addresses the Stipulation and Recommendation filed on October 24, 2008 in Case No. 08-72-GA-AIR. On December 22, 2011, Columbia filed a motion for waiver of standard filing requirements on the basis that a new law, House Bill 95, passed since the standard filing requirements were established, allows the filing of an alternative rate plan without a base rate filing. While before House Bill 95, an alternative rate plan was filed only in conjunction with a base rate proceeding, Columbia asserted in its request for a waiver that, as a result of the passage of House Bill 5, it need not file a base rate proceeding in conjunction with its alternative rate plan.

OCC's memorandum contra Columbia's motion for a waiver stated that the Stipulation and Recommendation filed October 24, 2008 in Case No. 08-72-GA-AIR provides that Columbia would make this filing in conjunction with a review of its base rates. While OPAE agrees with OCC, OPAE's Reply is not redundant. OPAE's position is essential because OPAE is a signatory party to the Stipulation and Recommendation in Case No. 08-72-GA-AIR, and the Commission should know OPAE's position on the stipulation, which OPAE signed. As OPAE stated in its Reply, the requirement for a review of base rates when an extension request is made was part of the agreement that OPAE signed in 2008. Ensuring that the IRP extension would be considered in conjunction with a base rate case was a key

consumer protection that induced OPAE to enter into the stipulation in Case No. 08-72-GA-AIR. OPAE negotiated for this provision as a means to assure that customers paying the single issue rider could take advantage of any increased efficiencies introduced by Columbia and that those cost savings would be reflected in base rates. Also as a result of the base rate filing, Columbia's rate base would include capital investments funded through the IRP, but the impact of this would be offset by cost reductions from the efficiencies. These are the reasons why OPAE signed the stipulation requiring a base rate filing.

OPAЕ's Reply also refutes Columbia's claims that the stipulation was drafted to recognize that future legislative changes might permit future alternative rate plans to be filed without the filing of a base rate case. As OPAE pointed out, if the stipulation intended this, it would have said so; it did not. Nor was OPAE considering, when it signed the stipulation in 2008, that some future legislation would alter the agreement. Columbia's request for an alternative regulation plan must, under the stipulation, be made in conjunction with a review of its base rates.

Columbia also claims that the stipulation sets different procedures for a modification of the IRP during its initial five-year term, which runs through 2012, and procedures beyond the initial five-year term. Columbia asserts that there is no commitment to file a base rate case when an extension beyond the five-year term is requested. Columbia relies on Paragraph 10 A at 9 of the Stipulation in Case No. 08-72-GA-AIR to support its position. However, this is the language of the stipulation upon which Columbia relies: "At the conclusion of the five year period specified herein, Columbia must request that the Commission reauthorize

Rider IRP in order to continue the mechanism beyond the five-year period. That request for reauthorization must be made as part of an application for an increase in rates pursuant to Section 4909.18, Revised Code, or Columbia's filing for an alternative method of regulation pursuant to Section 4929.05, Revised Code, and shall include all applicable due process protections.” First, there is no doubt, and even Columbia agrees, that during the five-year period, a base rate case will be filed. The language quoted above and relied upon by Columbia pertains to the period after the five-year period; i.e.: “At the conclusion of the five year period.” This language is irrelevant here because we simply are not at the conclusion of the five-year period. The conclusion of the five-year period is the end of 2012, not the end of 2011, when Columbia made this application. Columbia’s reference to the procedures at the conclusion of the five-year period is irrelevant.

Columbia must honor its agreement in the 2008 stipulation.

If Columbia fails to do so, the Commission should enforce the 2008 stipulation and require Columbia to file the appropriate application for review of its base rates as the 2008 stipulation requires. The Commission’s December 3, 2008 Opinion and Order in Case No. 08-72-GA-AIR adopted the stipulation and states, at 8, that the “IRP will be in effect for five years or until new rates become effective as a result of Columbia’s filing of an application for an increase in rates pursuant to Section 4909.18, Revised Code, or Columbia’s filing of a proposal to establish base rates pursuant to an alternative method of regulation pursuant to

Section 4929.05, Revised Code.” In order for the 2008 stipulation to be honored, Columbia must file a proposal to establish base rates.

Therefore, the Commission should reject Columbia’s motion to strike OPAE’s Reply, order that Columbia honor the provisions of the stipulation that Columbia signed in Case No. 08-72-GA-AIR, and require Columbia to file a base rate case with this application.

Respectfully submitted,

/s/Colleen L. Mooney

Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, OH 45840  
Telephone: (419) 425-8860  
Or (614) 488-5739  
FAX: (419) 425-8862  
[cmooney2@columbus.rr.com](mailto:cmooney2@columbus.rr.com)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Memorandum Contra was served electronically upon the parties identified below on this 19th day of January 2012.

/s/Colleen L. Mooney  
Colleen L. Mooney

### **SERVICE LIST**

Stephen B. Seiple  
Brooke E. Leslie  
Columbia Gas of Ohio, Inc.  
200 Civic Center Drive  
P. O. Box 117  
Columbus, Ohio 43216-0117  
[sseiple@nisource.com](mailto:sseiple@nisource.com)  
[bleslie@nisource.com](mailto:bleslie@nisource.com)

Larry S. Sauer  
Joseph P. Serio  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
[sauer@occ.state.oh.us](mailto:sauer@occ.state.oh.us)  
[serio@occ.state.oh.us](mailto:serio@occ.state.oh.us)

William Wright  
Attorney General's Office  
Public Utilities Commission Section  
180 E. Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215-3793  
[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/19/2012 12:56:16 PM**

**in**

**Case No(s). 11-5515-GA-ALT**

Summary: Memorandum Contra the Motion to Strike electronically filed by Ms. Colleen L Mooney on behalf of Ohio Partners for Affordable Energy