

NC FILE

14-1176-GA-CSS

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

UNITED SERVICES :  
AUTOMOBILE ASSOCIATION :  
as subrogee of Roger and Joy Ellen Wood :  
9800 Fredericksburg Road :  
San Antonio, Texas :

Complainant, :

v. :

NISOURCE, INC. :  
801 E. 86<sup>th</sup> Avenue :  
Merrillville, Indiana 46410 :

and :

COLUMBIA GAS OF OHIO, INC. :  
t/a Columbia Gas Distribution Companies :  
200 Civic Center Drive :  
Columbus, Ohio 43215 :

Respondents :

RECEIVED-DOCKETING DIV  
2014 JUL -3 AM 9:05  
PUCO

COMPLAINT

Complainant, United Services Automobile Association as subrogee of Roger and Joy Ellen Wood, by and through its undersigned counsel, and for its Complaint against Respondents, NiSource, Inc. and Columbia Gas of Ohio, Inc. t/a Columbia Gas Distribution Companies, avers as follows:

INTRODUCTION

1. This action is filed against Respondent, pursuant to Ohio Revised Code Section 4905.01 *et seq.*, for Respondent's failure to provide reasonable, necessary, and/or adequate natural gas service as required by Ohio statute and the regulations of the Public Utilities

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Commission of Ohio (“the PUCO”), which caused \$386,140.00 in damage to Complainant’s insured’s property.

2. This actions seeks: A declaration from the PUCO that Respondent breached its obligations under Ohio statute, the regulations of the PUCO, and/or applicable tariffs; compensation for the damage resulting from Respondent’s breach; authorization for an award of treble damages pursuant to OHIO REV. CODE ANN. §4905.61; for the costs of litigation, including all expenses and attorney’s fees to the fullest extent allowed by law; and such other and further relief as the PUCO deems just and equitable.

### **GENERAL ALLEGATIONS**

3. Complainant, United Services Automobile Association (“USAA”) is a reciprocal inter-insurance exchange and is a citizen in each state that it has a member, including, but not limited to, Ohio. At all times relevant hereto USAA was duly authorized to issue policies of insurance in the State of Ohio with a sole principal place of business located at 9800 Fredericksburg Road, San Antonio, Texas.

4. Respondent, NiSource, Inc. (“NiSource”) is a corporation and registered public utility duly organized and existing under the laws of the State of Delaware, with a principal place of business located at 801 E. 86<sup>th</sup> Avenue, Merriville, Indiana 46410.

5. Respondent Columbia Gas of Ohio, Inc. t/a Columbia Gas Distribution Companies (“Columbia Gas”) is a corporation and registered public utility duly organized and existing under the laws of the State of Ohio, with a principal place of business located at 200 Civic Center Drive, Columbus, Ohio 43215. NiSource is the corporate parent of Columbia Gas.

6. Plaintiff's insureds, Roger and Joy Ellen Wood, ("Wood") are adult individuals, that for all times relevant resided at 10374 Braemer Drive, Powell, Ohio 43065 ("the subject premises").

7. At all times material hereto, Plaintiff USAA provided property insurance coverage to Wood for the subject premises, pursuant to policy number 358655.

8. At all relevant times, NiSource regularly and systematically conducted business in the State of Ohio, and in Delaware County, by supplying and distributing natural gas (the "gas") to residential and commercial properties, including the subject premises.

9. At all relevant times, Columbia Gas regularly and systematically conducted business in the State of Ohio, and in Delaware County, by supplying and distributing natural gas to residential and commercial properties, including the subject premises.

10. On July 17, 2012, a fire (the "Fire") occurred at the subject premises.

11. The Fire was caused by a leakage of gas supplied and distributed by NiSource and Columbia Gas from their defective pipeline, meter and applicable equipment that was constructed, installed, repaired, serviced and regulated by Nisource and Columbia Gas.

12. As a result of the fire, Wood suffered significant damages to its real and personal property as well as loss of use expenses, which were in excess of \$386,140.00.

13. Pursuant to its contractual obligations, Plaintiff USAA has made payments to Wood, in an amount in excess of \$386,140.00.

14. By virtue of those payments, USAA is legally, equitably and contractually subrogated to any right of recovery possessed by its assured to the extent of payments made by USAA.

15. Pursuant to the principles of legal and equitable subrogation, as well as the terms and conditions of the aforementioned policy of insurance, USAA is subrogated to the rights of its insured to the extent of its payments.

16. At all times relevant hereto, Respondents acted by and through their respective employees, agents, servants and workmen, each of whom was acting in the course of his or her employment and within the scope of his or her authority, subject to the control and direction and for the benefit of their respective employers, the Repondents.

#### **JURISDICTION AND STATUTORY AUTHORITY**

17. The PUCO has jurisdiction over this Complaint pursuant to OHIO REV. CODE ANN. Sec. 4905.26 and OHIO REV. CODE ANN Sec. 4905.04-.06, and 4905.90-.96 (regarding intrastate gas pipe-lines).

#### **COUNT I**

#### **COMPLAINANT v. RESPONDENTS NISOURCE AND COLUMBIA GAS NEGLIGENCE**

18. Complainant incorporates by reference each and every allegation set forth above and below as though the same were fully set forth herein at length.

19. NiSource and Columbia Gas owed duties of care to Complainant's insured, and NiSource and Columbia Gas breached those duties resulting in damages sustained by Wood that

were caused by the negligent and careless acts and omissions of the Respondents NiSource and Columbia Gas as follows:

- a. failing to properly and safely monitor the supply and distribution of natural gas to the subject premises;
- b. failing to properly and safely maintain and control the supply and distribution of natural gas to the subject premises;
- c. failing to properly and safely inspect, control, maintain, and repair the pipeline, meter and applicable equipment used to supply, distribute, convey, transport, deliver, regulate, measure and control the natural gas going to the subject premises;
- d. failing to properly train, instruct and monitor its agents, workmen and employees;
- e. failing to properly train, instruct and monitor its subcontractors, agents, workmen and employees;
- f. continuing to provide gas to the subject premises when it knew or should have known of dangerous conditions within the supply and distribution system that provided gas to the subject premises;
- g. violating applicable codes, standards, practices and regulations regarding the supply and distribution of natural gas and applicable equipment; and
- h. supplying, conveying, selling, distributing, and/or delivering and/or transporting gas in an unsafe manner that presented an unreasonable risk of harm;
- i. failing to meet the requirements set forth in OHIO REV. CODE ANN Sec. 4905.90 - .96 (regarding gas pipe-lines) and the pipe-line safety code; and
- j. otherwise failing to use due care under the circumstances.

20. As a direct and proximate result of the aforesaid gross negligence, negligence, carelessness and negligent acts and omissions of NiSource and Columbia Gas, the aforementioned fire occurred causing substantial damage and destruction to Wood's property.

21. By virtue of its payment, Complainant became legally and equitably subrogated, to the extent of its payments, to the Wood's right to recovery against Respondent.

## COUNT II

### COMPLAINANT v. RESPONDENTS NISOURCE AND COLUMBIA GAS STRICT LIABILITY FOR ULTRA-HAZARDOUS ACTIVITIES

22. Complainant incorporates by reference each and every allegation set forth above and below as though the same were fully set forth herein at length.

23. At all times relevant hereto, defendants NiSource and Columbia Gas, by and through their agents, servants and/or employees, were engaged in the aforementioned ultra-hazardous activity of supply and distribution of natural gas, for which activity and resulting harm thereof Respondents are strictly liable.

24. The occurrence referred to above and the consequent damage to Wood's property was caused by the actions and omissions of the Respondents, for which they are strictly liable, for creating an unreasonable risk of harm to Wood by performing an ultra-hazardous activity.

25. As a result of the Respondents' conduct, for which they are strictly liable, the occurrence referred to above took place and resulted in damage to Wood's property.

26. As a direct and proximate result of the aforesaid acts and omissions of NiSource and Columbia Gas, the aforementioned Fire occurred causing substantial damage and destruction to Wood's property.

27. By virtue of its payment, Complainant became legally and equitably subrogated, to the extent of its payments, to the Wood's right to recovery against Respondent.

**COUNT III**

**COMPLAINANT V RESPONDENTS NISOURCE AND COLUMBIA GAS  
BREACH OF TARIFF**

28. Complainant incorporates by reference each and every allegation set forth above and below as though the same were fully set forth herein at length.

29. Prior to the Fire, Respondents entered into an express and/or implied tariff agreement with Wood pursuant to which Respondents were obligated to provide sufficient, necessary and reasonable gas service to the Wood's property.

30. Respondents breached its agreement with Wood when it caused and/or permitted the gas leak and ensuing Fire to occur.

31. As a result of the Respondent's breach of its agreement with Wood, the Wood's property, both real and personal, was damaged and/or destroyed.

32. By virtue of its payment, Complainant became legally and equitably subrogated, to the extent of its payments, to the Wood's right to recovery against Respondent.

**COUNT IV**

**COMPLAINANT V RESPONDENTS NISOURCE AND COLUMBIA GAS  
REGULATORY VIOLATIONS**

33. Complainant incorporates by reference each and every allegation set forth above and below as though the same were fully set forth herein at length.

34. At all times material hereto, the regulatory and statutory duties imposed by this Commission required Respondent to exercise all due and reasonable care in providing sufficient, necessary, and reliable gas service to Complainant's insureds.

35. Respondents knew, or reasonably should have known, that Complainant's insured relied upon Respondent's skill, common knowledge and expertise to insure that gas service was at all times supplied in accordance with the law and regulations of this Commission.

36. As a direct and proximate result of Respondents' failure to comply with their regulatory and statutory obligations, Complainant's insured sustained substantial damages and losses, as described above.

37. By virtue of its payment, Complainant became legally and equitably subrogated, to the extent of its payments, to the Wood's right to recovery against Respondent.

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant demands the following relief to which it is entitled;


1. A declaration from the PUCO that Respondent breached its obligations under Ohio statute, the regulations of the PUCO, and/or applicable tariffs;
2. Authorization for an award of treble damages pursuant to OHIO REV. CODE ANN. Sec. 4905.61.
3. For the costs of litigation, including all expenses and attorney's fees to the fullest extent allowed by law; and
4. For such other and further relief as the PUCO deems just and equitable.



DATED: July 3, 2014

Respectfully submitted,

BY:



ANDREW P. AVELLANO, ESQ. (0062907)  
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COUNSEL FOR COMPLAINANT

OF COUNSEL

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The PUCO can help resolve disputes between you (the consumer) and utility companies in the industries of electric, natural gas, telephone, water, and **household goods moving**. Before contacting the PUCO, you should contact the utility or moving company and give them the opportunity to resolve the matter with you directly.

Please be aware that the PUCO cannot provide direct financial assistance (although it can assist you in setting up a **payment plan** with your utility). The PUCO does not regulate providers of cable, cellular, pagers, propane gas, heating oil, or internet service; and does not have jurisdiction over co-operative or municipal utilities.

Use the form below to provide comments, ask a question, or file a complaint. Please fill out the form completely. The more specific information you provide, the better we can assist you. If you need help with the form, please review the **detailed instructions**.

The information you provide is considered public information and cannot be kept confidential. Review the **PUCO Privacy Statement** for more information.

**About This Contact:**

This is a:	<input type="radio"/> comment <input type="radio"/> question <input checked="" type="radio"/> complaint
Do you wish to have the PUCO contact you regarding this complaint?	<input checked="" type="radio"/> Yes, please contact me <input type="radio"/> No, do not contact me

**Personal Information**

Title:	<input checked="" type="radio"/> Mr. <input type="radio"/> Mrs. <input type="radio"/> Ms. <input type="radio"/> Dr.
First Name:	Andrew
Last Name:	Avellano, Esq.
	<input type="radio"/> Jr. <input type="radio"/> Sr. <input checked="" type="radio"/> None

## Contact Information

Email:

<b>Email Address:</b>	drewavo@wowway.com e.g. YourEmail@YourDomain.Com
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Phone

<b>Home Telephone Number:</b>	614-237-8050 e.g. (614) 333-5555
<b>Alternative Telephone Number:</b>	 e.g. (614) 333-5555
<b>Fax:</b>	614-237-3505 e.g. (614) 333-5555

Mail:

<b>Street Address:</b>	4181 East Main Street
<b>Address Line 2:</b>	
<b>Address Line 3:</b>	
<b>City:</b>	Columbus
<b>State:</b>	Ohio
<b>Country:</b>	USA
<b>Zip Code:</b>	43213

## Service Description:

<b>Type of Service:</b>	<input type="radio"/> Electric <input checked="" type="radio"/> Gas <input type="radio"/> Phone <input type="radio"/> Water <input type="radio"/> Furniture Movers <input type="radio"/> Other
<b>Company Name:</b>	United Services Automobile Association
<b>Name on Account:</b>	Roger and Joy Ellen Wood
<b>Service Address:</b>	10374 Braemer Drive, Powell, Ohio 43065
<b>Service Phone Number:</b>	to be supplied
<b>Account Number:</b>	to be supplied

**Your Question, Comment, or Complaint:**

(This box is limited to 6000 characters. Only provide the most relevant information or use an alternative method to contact the PUCO. Alternative methods are listed below.)

Please see the attached complaint entitled:  
United Services Automobile Association, as  
subrogee of Roger and Joy Ellen Wood, Complainant  
against Nisource, Inc. and Columbia Gas Of Ohio,  
Inc., Respondants

**Other ways to contact the PUCO**

If you have any questions, you can call us toll free (in Ohio) Monday through Friday between 8:00 a.m. and 5:00 p.m., Eastern Time:

(800)-686-7826 (voice)

(800)-686-1570 (TDD)

You can write to us at:

ATTN: IAD

Public Utilities Commission of Ohio

180 E. Broad St.

Columbus, Ohio 43215-3793

**Directions to the PUCO**

You can fax us 24 hours a day at

(614) 752-8351.