

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Suburban Natural Gas Company,)	
)	
Complainant,)	
)	
v.)	Case No. 17-2168-GA-CSS
)	
Columbia Gas of Ohio, Inc.)	
)	
Respondent.)	

**DIRECT TESTIMONY OF ANDREW J. SONDERMAN
ON BEHALF OF
SUBURBAN NATURAL GAS COMPANY**

1 **Direct Testimony of**

2 **Andrew J. Sonderman**

3 **I. BACKGROUND AND PURPOSE**

4 **Q1. Please introduce yourself.**

5 A. My name is Andrew J. Sonderman. I am the President and Chief Operating Officer of
6 Suburban Natural Gas Company (Suburban). My business address is 2626 Lewis Center
7 Road, Lewis Center, Ohio 43035.

8 **Q2. What is the purpose of your testimony?**

9 A. My testimony explains Columbia Gas of Ohio, Inc.'s (Columbia) campaign of unfair
10 competition against Suburban. The campaign revolves around Columbia's promotion of
11 builder rebates under its EfficiencyCrafted Homes program. These rebates are not being
12 promoted "in the Columbia service territory" to promote energy efficient construction, as
13 advertised when Columbia sought approval of the program. Columbia is promoting the
14 rebates to gain a competitive advantage in its quest to expand its service territory—not to
15 areas without a current gas supplier or areas easily reachable from Columbia's existing
16 mains, but in areas currently served by Suburban.

17 **Q3. What is Suburban asking the Commission to do?**

18 A. We are asking the Commission to do two things. First, we request that the Commission
19 *immediately* grant our request for emergency interim relief and direct Columbia to cease
20 offering or promoting builder incentives anywhere in Delaware County, Ohio, until the
21 Commission issues a final order in this case. If Columbia has not already completed the
22 installation of duplicate gas mains along Cheshire Road in Delaware County, the
23 emergency order should also direct Columbia to stop further construction of this main
24 extension.

1 Second, as for final relief, Suburban asks for an order permanently barring Columbia
2 from offering builder incentives in Delaware County; basically, making the interim relief
3 permanent. Regardless of the sincerity of one's commitment to energy efficiency, it is
4 hard to imagine how subsidies that reward the construction of upscale homes in the
5 wealthiest county in the state promote any legitimate energy efficiency objectives.
6 Perhaps builder rebates serve a useful purpose somewhere in Ohio, but certainly not
7 Delaware County. The only purpose these rebates serve in Delaware County is to
8 undercut competition by Suburban.

9 **Q4. Does the record in this case justify additional Commission action that Suburban did**
10 **not specifically request in the Complaint?**

11 A. It certainly does. Suburban has learned that it is not the only competitor undercut by
12 builder rebates. Columbia sales personnel have admitted that they pitched these builder
13 incentive rebates successfully to a developer in Blacklick, Ohio, to gain a foothold in
14 territory served by The Energy Cooperative. The Commission would be well within its
15 authority to open an investigation into just how widespread Columbia's abuse of builder
16 rebates is, and to declare a moratorium on the EfficiencyCrafted Homes program
17 throughout Columbia's service territory while the investigation is pending.

18 **II. BACKGROUND**

19 **Q5. Please describe Suburban's business.**

20 A. Suburban is a small, privately-owned natural gas utility founded in Cygnet, Ohio, in the
21 1880s. We entered the central Ohio market in 1989 to serve what was then a largely rural
22 area of southern Delaware County. Suburban continues to have a presence in Wood and
23 Henry Counties, but our operations are now much larger in our southern system. We
24 serve approximately 13,100 customers in Marion and Delaware Counties (with

1 approximately 12,700 in southern Delaware County), and around 4,100 customers in
2 Wood and Henry Counties. Our customer base is approximately 98 percent heat sensitive
3 residential and small commercial load. We have a small number of transportation service
4 customers served either under our transportation service tariff or special arrangements
5 approved by the Commission. Suburban currently has 36 employees.

6 **Q6. What are your responsibilities as Suburban's President and Chief Operating**
7 **Officer?**

8 A. I execute policies and objectives developed by Suburban's Board of Directors, which is
9 chaired by David Pemberton, Sr. I have overall daily responsibility for the management
10 of our operational, financial and regulatory affairs.

11 **Q7. How long have you been with the company?**

12 A. I joined Suburban in February 2015.

13 **Q8. What experience and qualifications did you bring to Suburban?**

14 A. I earned a Bachelor of Arts degree *summa cum laude* from Kent State University, with
15 majors in history and political science. I received a Juris Doctor degree with highest
16 honors from The Ohio State University College of Law in 1976. After law school, I
17 joined what was then known as The Columbia Gas System, and later as Columbia Energy
18 Group, which merged into NiSource, Inc. in November 2000. I served as General
19 Counsel and Corporate Secretary for the public utility subsidiaries of these utility holding
20 companies from 1990 through 2003. Between 2004 and the time I joined Suburban in
21 2015, I was a lawyer in private practice with various area law firms, the last of which was
22 Kegler Brown Hill & Ritter, LPA, where I was a Director and Area Chief for its energy
23 and environmental law practice.

1 **Q9. How would you describe Suburban's service area and customer base?**

2 A. Most of our customer base is residential, and the majority of our residential customers are
3 located in southern Delaware County. Residential development in southern Delaware
4 County has been strong for several decades, which explains our growth from attaching
5 our first customer in 1989, to approximately 12,700 customers today. Over this same
6 period, Suburban has invested over \$23.9 million in new plant and equipment in Marion
7 and Delaware Counties. Commission Staff have recognized the need for additional
8 capacity to serve future expected load growth, and we are in the process of investing over
9 \$8.5 million for new pipeline facilities to meet these capacity needs and have received the
10 Commission's approval for the financing of this significant pipeline project by its final
11 order in Case No. 17-1559-GA-AIS.

12 **Q10. How has population grown in Delaware County compared to the rest of the state?**

13 A. Between 2000 and 2016, the population of Delaware County grew by 78.6 percent. The
14 next most significant increase in population during that period was in Warren County
15 near Cincinnati at 42.3 percent. By comparison, Franklin County experienced population
16 growth of 18.3 percent. Delaware County is projected to again lead Ohio in population
17 growth from 2010 to 2020, at 20.9 percent estimated growth.¹

18 **Q11. Does Suburban face competition?**

19 A. We do. Suburban's Delaware County service area is surrounded by Columbia.

20 **Q12. Is Suburban asking the Commission to protect it from competition by Columbia?**

21 A. Not at all. We have successfully competed against Columbia for many years. I suspect
22 that this has frustrated Columbia greatly, which would explain why Columbia has

¹ All population figures from Ohio Development Services Agency Ohio, County Indicators July 2017, available at <https://development.ohio.gov/files/research/C1091.pdf>.

1 decided to exceed the boundaries of *fair* competition by abusing its builder rebate
2 program. Columbia’s claim that Suburban wants an exclusive service area or other
3 special treatment to protect us from competition is simply not accurate.

4 **Q13. In what respect has Columbia “exceeded the boundaries of fair competition”?**

5 A. Columbia is using its EfficiencyCrafted Homes program as cover to invade Suburban’s
6 service area. Columbia has always pitched this program as a tool to promote energy
7 efficient construction “in” its “service territory,” and the Commission recently authorized
8 Columbia to spend nearly \$20 million between 2017 and 2022 for this purpose. Columbia
9 has apparently interpreted re-approval of the program as a green light to market builder
10 incentives to builders and developers that Suburban is either currently serving or has
11 committed to serve in the future. To further sweeten the deal, Columbia is waiving line
12 extension deposits—to construct mainline extensions directly across the street from
13 mains Suburban had installed to serve the developments Columbia has decided to target,
14 no less. I cannot fathom that the Commission intended for Columbia to use ratepayer-
15 supplied demand-side management funds for such a nefarious purpose.

16 **Q14. Has Columbia succeeded in getting builders to switch from Suburban to Columbia?**

17 A. Yes. As we describe in the Complaint, Suburban serves the first ten phases of the
18 Glenross subdivision, north of Cheshire Road, in Berlin Township. A representative of
19 Pulte has testified that Pulte selected Columbia to serve future phases on the south side of
20 Cheshire Road because Columbia has agreed to pay a six-figure sum for builder rebates;
21 build an almost 7,000-foot line extension at no cost to Pulte; and pipe all future phases on
22 the south side of Cheshire Road at no cost to Pulte.

1 **Q15. Is Glenross the only instance where Columbia promoted its builder incentives to**
2 **attempt to win business?**

3 A. No. As Mr. Roll testifies, the developer we work with in Berlin Manor, located in Berlin
4 Township, is being promised builder incentives to switch to Columbia. Berlin Manor is
5 located farther east from Glenross along Cheshire Road where we already have supply
6 mains installed.

7 **III. COLUMBIA'S BUILDER INCENTIVES**

8 **Q16. Do you understand the EfficiencyCrafted Homes program as a program the**
9 **Commission approved as part of Columbia's DSM portfolio?**

10 A. Yes. Columbia first received approval for a builder incentive program in Case No. 08-
11 833-GA-UNC. The program was re-approved in Case No. 11-5028-GA-UNC, and more
12 recently in Case No. 16-1309-GA-UNC. Although given a different name at different
13 times and funded at different levels, the basic concept underlying the program has
14 remained the same. Broadly speaking, these incentive programs authorize Columbia to
15 issue rebates to builders who build homes to certain levels of energy efficiency. The
16 rebates are funded through a rider charged to Columbia's customers. To my knowledge,
17 the builder incentive programs are Columbia's only demand-side management programs
18 that pay rebates to builders. There is no requirement that the builders pass through or
19 share any portion of the incentive with Columbia's residential customers who purchase
20 new homes.

21 **Q17. Given that the Commission approved the EfficiencyCrafted Homes program, and**
22 **the very purpose of the program is to pay rebates to developers and builders, how**
23 **can Columbia's promotion of these rebates be improper?**

1 A. The Commission did not approve the builder rebate programs for the purpose of winning
2 competitive wars against smaller gas utilities who do not have comparable builder
3 subsidies. Rather, from the very start, Columbia explicitly sold these programs to the
4 Commission as a way to improve energy efficiency in homes built “in” or “within”
5 Columbia’s “service territory.” But today, Columbia is promoting the rebate programs to
6 builders as a way to distinguish itself from competitors that do not offer rebates so that
7 Columbia can *expand* its service territory rather than enhance energy efficiency within it.

8 **Q18. How has Columbia described its builder rebate programs to the Commission?**

9 A. Columbia initially sought approval of a builder rebate program in Case No. 08-833-GA-
10 UNC. Here is how Columbia’s application described the program:

11 Builders of new, gas-heated single-family homes built **in the COLUMBIA service**
12 **territory** will be the target market for the program. The program will work
13 extensively to recruit major production builders as well as smaller spec builders.
14 There is already a considerable Energy Star market presence in the service territory
15 of nearly 10 % of the new home market. (Application at 25; Emphasis added.)

16 A similar statement appears in Columbia’s application to renew the program in Case No.
17 11-5028-GA-UNC:

18 Builders and buyers of new, gas-heated, single family homes built **in the Columbia**
19 **service territory** will be the target market for the program. The program will seek
20 to maintain participation by existing builders participating in the Energy Star
21 program, as well as increase participation by Affordable Housing developers and
22 “value” builders currently building to code minimum. (Application at 28.)

23 Note that no testimony was filed and no hearing on the merits of the builder incentive
24 programs was conducted in either of these two proceedings. The builder incentive
25 programs were simply appended to other DSM programs designed in stakeholder
26 meetings.

27 Most recently, in Case No. 16-1309-GA-UNC, Columbia offered this description:

1 Columbia will continue its EfficiencyCrafted® Homes program, which offers
2 incentives to home builders to build homes that exceed state energy code minimum
3 levels. Participating homebuilders will continue to provide Ohio homebuyers with
4 Energy Star® or EfficiencyCrafted® Homes that score 70 or lower on the Home
5 Energy Rating System scale. Both standard market and affordable housing market
6 homebuilders participate in the program. Columbia will also maintain its
7 partnership with AEP Ohio in jointly served counties to match incentives to achieve
8 high levels of energy efficiency in new homes.... (Application at 11-12.)

9 **Q19. The 2008 and 2011 applications reference “homes built in the Columbia service**
10 **territory,” but the 2016 application makes no mention of “service territory.” Do you**
11 **attach any significance to this omission?**

12 A. No. In its 2008 and 2011 applications, Columbia represented that the program would
13 target builders “in the Columbia service territory.” In its most recent application in Case
14 No. 16-1309-GA-UNC, Columbia stated that it would “continue” the program. In
15 representing that it would “continue” a program targeting homes “in the Columbia
16 service territory,” Columbia’s 2016 application implies that the target market—“homes
17 built in the Columbia service territory”—will also continue.

18 **Q20. Did the Commission refer to Columbia’s “service territory” in approving**
19 **continuation of the program in that proceeding?**

20 A. Yes. In approving the continuation of the program, the Commission stated:
21 The Commission finds that Columbia’s EfficiencyCrafted Homes program is an
22 effective method to encourage the construction of energy efficient home **in**
23 **Columbia’s service territory** and the customer is served by Columbia. Homes
24 can exist for decades, if not longer, and installing energy efficient and
25 conservation measures during construction can provide long-term savings for the
26 resident. The **key factor** is that the home is located **within Columbia’s service**
27 **territory** and the customer is served by Columbia. (Order ¶115 (Emphasis
28 added).)

29 **Q21. What do you make of Columbia’s statements about gas LDCs not having certified**
30 **service territories?**

1 A. This entire line of argument is a red herring. Suburban does not and has not alleged that
2 Columbia is statutorily prohibited from serving any particular geographic area. But
3 Columbia is now employing its builder incentives in a way that does not match its own
4 established boundaries. That is, Columbia applied to continue the program “in” its
5 “service territory,” and the Commission approved continuation of the program “in”
6 Columbia’s “service territory.” The term “service territory” implies a geographic area
7 more limited than the State of Ohio. If Columbia wished to obtain approval to offer the
8 program anywhere in Ohio, it could have asked for it. Columbia did not. It specifically
9 limited its request for approval “in the Columbia service territory.”

10 **Q22. Have you seen any testimony or pleadings in this case where Columbia has**
11 **described what it meant by “service territory”?**

12 A. No.

13 **Q23. What does the term “service territory” mean to you?**

14 A. In the context Columbia used the term in its DSM applications, it seems clear that
15 Columbia intended the term “service territory” to mean areas where it already has gas
16 mains, or areas where Columbia was the only provider capable of extending an existing
17 main to a new development. This is also how I have always understood the term in my
18 career as a regulatory lawyer, and I do not draw a distinction between “service territory”
19 or “service area.”

20 **Q24. Couldn’t the term “service territory” also include any geographic area Columbia**
21 **currently serves in the future?**

22 A. If that is what was intended, Columbia would have said so. It could have written its three
23 applications to describe the target market as “any area currently receiving service from

1 Columbia or served by Columbia in the future.” A statement that the program would be
2 offered “anywhere in the State of Ohio served by Columbia currently or in the future”
3 would have convey the same idea. But this is simply not what the applications say. The
4 first two applications refer to construction “in the Columbia service territory.” Over three
5 dozen other gas LDCs, some regulated and some not, also have a “service territory”
6 within Ohio.² Columbia’s applications imply a distinction between its “service territory”
7 and the service territory of other providers, and put the Commission and the public on
8 notice that the DSM programs would be offered only “in” Columbia’s service territory.

9 **Q25. Is it reasonable to assume that if Columbia had disclosed an intent to use the**
10 **EfficiencyCrafted Homes program as a marketing tool to expand its service**
11 **territory into the service territory of other providers, the Commission would have**
12 **expressed serious concerns?**

13 A. There is no doubt about it. In fact, the Commission has rejected incentive programs
14 designed to give the applicant a competitive edge or respond to competition. For
15 example, in Case No. 11-5846-GA-SLF, the Commission rejected Suburban’s request to
16 offer builder incentives if necessary to counter Columbia’s builder incentives. The Staff
17 witness in that case, Steve Puican, testified that “Suburban’s program is strictly a
18 competitive response program. It is intended to compete with Columbia for new load.”³
19 According to Mr. Puican, “the Commission has never before approved a rider with that
20 intended purpose.” Thus, “[a]lthough I understand the rationale behind Suburban’s
21 particular proposal in this proceeding, I believe its approval would set a bad precedent by

2 See Ohio Public Utilities Commission, Natural Gas Distribution Service Providers as of March 15, 2017, available at https://www.puco.ohio.gov/emplibrary/files/Util/GIS/Gas_Maps/Natural_Gas_Distribution_Companies.pdf.

3 Case No. 11-5846-GA-SLF, Direct Testimony of Stephen E. Puican (June 6, 2012) at 5.

1 potentially encouraging competitive response proposals by other LDCs.”⁴ Consistent
2 with Mr. Puican’s recommendation, the Commission rejected Suburban’s application.

3 **Q26. As of 2016, was the Glenross subdivision within Columbia’s “service territory” as**
4 **you understand that term?**

5 A. No. As of 2016, Suburban was serving this development.

6 **Q27. Did Suburban’s “service territory” encompass Glenross?**

7 A. Yes. As I already mentioned, we have been serving the subdivision since the first phase
8 began in the early to mid-2000s. We supported the developer’s zoning application in
9 2002. Pulte continues to build homes in several phases on the north side of the
10 development, and Suburban serves those homes as they are completed. Service to the
11 subdivision is provided by a main that runs along the north side of Cheshire Road, built
12 specifically to serve both the north and south sides of this development.

13 **Q28. What did Columbia have to do to extend service to Phase 11 of Glenross on the**
14 **south side of Cheshire Road?**

15 A. Columbia had to install nearly 7000 feet of 8’ main along Cheshire Road, along the
16 opposite side of the street of the Suburban main that has been in place for over 15 years.
17 Columbia is also scheduled to install over 3,000 feet of distribution pipe within the
18 development.

19 **Q29. Do you know how much Pulte has or is required to pay for this work?**

20 A. According to deposition testimony from both Pulte and Columbia, nothing. Columbia is
21 installing over 10,000 feet of main extension and distribution infrastructure for Phase 11

⁴ *Id.*

1 at no charge. Distribution infrastructure in phases 12 through 15 will also be provided by
2 Columbia at no charge.

3 **Q30. Is the fact that Columbia is duplicating Suburban's facilities along Cheshire Road**
4 **of concern?**

5 A. Yes. From an economic perspective, duplicating utility distribution facilities is inefficient
6 and wasteful. Whether it is Suburban's ratepayers or Columbia's, someone is bearing the
7 cost of an investment that is not necessary, because the service need driving the
8 investment can be met with existing facilities. And, as Mr. Roll explains, it is virtually
9 impossible for Suburban to plan its facilities for system growth or even manage its
10 current capacity needs when there is no telling where else Columbia will attempt to
11 displace Suburban.

12 **Q31. How do you know Columbia is using the EfficiencyCrafted Homes program as a**
13 **competitive tool?**

14 A. Because Columbia has admitted as much. One of the Columbia sales people involved in
15 getting Pulte to convert the south phases of Glenross to Columbia, Mr. Joe Codispoti,
16 testified at his deposition that he promoted the EfficiencyCrafted Homes program as a
17 way to distinguish Columbia from Suburban, and that Columbia's ability to offer
18 incentives gave it a competitive advantage. One of the key players for Pulte, Mr. Jeff
19 Thompson, confirmed that Pulte decided to allow Columbia to serve Glenross because of
20 these incentives. And we know that Glenross was not a one-off incident. Exhibit 2.1 to
21 my testimony is a memorandum I wrote to document a conversation among myself, Mr.
22 Pemberton and Mr. Roll with representatives of Romanelli & Hughes, whose description
23 of Columbia's sales pitch about incentives is very similar to the pitch made to Pulte. The

1 Pulte and Romanelli & Hughes version of Columbia's sales tactics are also consistent
2 with the tactics Columbia is using to try to lure the Berlin Manor subdivision away from
3 Suburban, as Mr. Roll describes in his testimony.

4 **Q32. Are Columbia's tactics limited to competitive situations with Suburban?**

5 A. Apparently not. Mr. Codispoti also testified that Columbia recently competed against
6 Energy Cooperative to serve a development in Blacklick, Ohio, called Woodland Creek.
7 Columbia highlighted its EfficiencyCrafted Homes program and won the development.

8 **Q33. Do you blame builders and developers for accepting incentives from Columbia?**

9 A. While I wish Pulte would have chosen Suburban to continue to serve this latest phase of
10 Glenross, I understand why Pulte made the choice it did. Business is business. Pulte
11 Homes of Ohio is part of PulteGroup, Inc., a public company listed on the New York
12 Stock Exchange. Pulte's investors expect the company to make money, and Pulte will
13 make more money by choosing Columbia as its gas provider. Why? Because Pulte will
14 get "free money" provided by Columbia's residential customers. Pulte doesn't have to
15 change its product—it will build what it is going to build in Glenross, and it is fanciful to
16 think that the homes Pulte will build in developments or phases served by Columbia will
17 be more energy efficient than homes served by Suburban. Pulte is not building "value" or
18 starter homes in Delaware County; it is building "upscale" homes, according to Mr.
19 Thompson. It is also fanciful to think that Pulte will pass along the incentives to
20 homebuyers. Why would it? The buyers do not know that Pulte is getting rebates from
21 Columbia, and the rebates belong to Pulte—not the homebuyer—in any event.

1 **Q34. Why are you skeptical whether the homes Pulte will build on the south side of**
2 **Cheshire Road will be any more or less energy efficient than the homes it will build**
3 **on the north side?**

4 A. Because Pulte does not design and build its product around the standards necessary to
5 qualify for Columbia's incentive programs. Pulte, like every other residential builder, has
6 to follow Ohio Residential Building Code standards for new home construction.⁵ The
7 Residential Building Code generally requires builders to meet efficiency standards
8 established under the 2009 version of the International Energy Conservation Code
9 (IECC).⁶ Pulte is one of the largest builders in the United States, and it is reasonable to
10 assume that where there is a market for premium homes that exceed minimum code
11 levels, Pulte will build them to meet market demand.

12 **Q35. Have you reviewed any data which suggests there is a market for energy efficient**
13 **homes in Delaware County, regardless of incentives or mandates?**

14 A. Yes. Over half of Delaware County residents over the age of 25 have a bachelor's degree;
15 the highest percentage in the state.⁷ Delaware County residents also happen to be the
16 richest in the state, with a median household income of nearly \$92,000, and over 20% of
17 households reporting income between \$100,000 and \$150,000.⁸ It is commonly accepted
18 that wealthier, highly educated individuals tend to place more value on energy efficiency
19 and conservation than the general population.

⁵ See generally, O.A.C. 4101:8-1 *et seq.*

⁶ See O.A.C. 4101:8-11-01, Section 1101.2.

⁷ See Ohio Development Services Agency, Educational Attainment: Ohio by the Numbers, available at <https://development.ohio.gov/files/research/P7006.pdf>.

⁸ See Ohio Development Services Agency, Ohio County Profiles, Delaware County, available at <https://development.ohio.gov/files/research/C1022.pdf>.

1 **Q36. What does the publicly-available demographic data show about the housing market**
2 **in Delaware County?**

3 A. The Delaware County Regional Planning Commission published data by township on
4 January 5, 2018, using source data from the U.S. Census Bureau collected from 2012
5 through 2016.⁹ In Berlin Township, where the Glenross development is located, the
6 median value of owner-occupied homes was \$293,400. In Orange Township, where
7 Suburban serves many developments, the corresponding median home value was
8 \$280,100. And in Genoa Township, the corresponding median home value was
9 \$314,800. Clearly, premium homes are being built to serve new home buyers with
10 above-average household incomes. The median household incomes by township in
11 Suburban's service area are \$108,351 (Orange); \$121,005 (Berlin); and \$120,589
12 (Genoa).¹⁰

13 **IV. RELIEF REQUESTED**

14 **Q37. You have testified that Columbia's rebate program gives it an unfair advantage.**
15 **Why doesn't Suburban just match the rebates Columbia offers?**

16 A. Suburban filed an application for approval of a builder incentive program in Case No. 11-
17 5846-GA-SLF but the Commission rejected it, in large part because Suburban could not
18 point to any subdivisions lost to Columbia as a result of Columbia's incentives. It turns
19 out that what we said in that case would happen has in fact happened. But given the huge
20 increase in builder incentive expenditures by Columbia since 2011 (nearly \$20 million
21 has been authorized for the 2017-2022 DSM program period), the disadvantage Suburban

9 Delaware County Regional Planning Commission, 2012-2016 American Community Survey Census Estimates, available at <http://www.dcrpc.org/DATA/demographics.htm>.

10 *Id.*

1 has been placed in cannot be remedied by simply authorizing Suburban to match
2 Columbia's incentives. It is a matter of simple economics. Whatever Columbia spends
3 can be spread around and recovered from over 1 million customers. Suburban has
4 approximately 17,000 customers. The cost of incentives to Columbia's ratepayers is
5 pennies; that same cost spread among Suburban's ratepayers would be dollars. Such a
6 rate differential would only further weaken Suburban's ability to compete.

7 **Q38. How has Columbia's promotion of builder incentives affected Suburban?**

8 A. Negatively, to say the least. Suburban has devoted significant resources to serve the
9 Glenross development. We've built and managed our system not only to serve the ten
10 phases we currently serve, but future phases as well. We understand that no territorial law
11 guarantees us to serve this development. But tell that to the builders and homeowners in
12 that community. Suppose, for example, that when Mr. Thompson informed Mr. Roll that
13 Pulte was ready to proceed with Glenross Phase 11, Mr. Roll responded that Suburban
14 did not have adequate capacity or resources to serve. Suppose that Mr. Thompson had
15 then approached Columbia, and Columbia declined to serve because its mains were too
16 far away. If faced with a complaint by Pulte to compel Suburban to serve, I rather doubt
17 the Commission would let Suburban off the hook because it has no "certified territory."
18 Suburban made a commitment to serve in 2002, and a main is in place to provide service.
19 Under these circumstances, it is fair to say the Commission would either order Suburban
20 to serve or have a very good reason for not serving.

21 **Q39. How can the Commission order Suburban or any other gas company to serve when**
22 **there are no gas certified territories?**

1 A. It is important to remember that in the case of electric certified territories, there is not
2 only a right to serve, but a duty to serve. The absence of a comparable statute for gas
3 utilities means there is no right to serve to the exclusion of other providers, but it does not
4 mean there is no duty to serve. The very nature of a “public” utility is that a service
5 provider who has dedicated facilities to public use must offer the service on a non-
6 discriminatory basis, commensurate with its ability and capacity. Suburban holds itself
7 out as a public utility, and persons within its service area—current and future—have
8 come to rely on, and are entitled to rely on, the availability of gas service from Suburban.
9 Suburban cannot choose to serve only the most lucrative customers and force smaller,
10 less profitable consumers to rely on electric or other alternative fuels. I am not suggesting
11 that a gas company has an absolute duty to render service to anyone who asks for it,
12 regardless of the cost to provide the service or the effect on other customers. What I am
13 suggesting is that regardless of whether Suburban has a “right” to serve, it has assumed a
14 duty to serve within its territory. Columbia’s actions severely inhibit Suburban’s ability
15 to discharge that duty, as Mr. Roll explains.

16 **Q40. Does the absence of certified gas territories provide an opportunity for “cherry-**
17 **picking” by competitors?**

18 A. Absolutely, and that is exactly what Columbia is doing. Columbia has duplicated
19 Suburban’s facilities along Cheshire Road to serve a 400-plus home development, which
20 perhaps is small potatoes for Columbia, but huge for Suburban. Columbia and Suburban
21 are now both capable of serving additional customers along Cheshire Road. If Columbia
22 receives a service request for, say, a one-off residential conversion from a propane or all-
23 electric customer, Columbia can easily pass them off to Suburban. But if Columbia

1 receives a request to pipe additional phases of Glenross or other developments by
2 extending its new main on Cheshire Road even further, it is now in a position to do so.
3 Columbia now has the best of both worlds—the duty to serve everyone or no one, as it
4 sees fit.

5 **Q41. What should the Commission do?**

6 A. First, the Commission should grant the emergency interim relief outlined in our motion
7 filed at the outset of this Complaint. The current uncertainty about whether Columbia will
8 be permitted to raid our market area with impunity is creating a conundrum for Suburban
9 already, as we are in the midst of the Power Siting Board approval process for our
10 pipeline extension that is essential to serve the load our system model projects by no later
11 than the end of 2018.¹¹ It takes time to construct such a pipeline extension. We need
12 certainty that our projections will not be upset by the predatory incursions of Columbia
13 Gas.

14 Second, the Commission should order Columbia to cease the EfficiencyCrafted Homes
15 program in Delaware County. The “incentives” Columbia is offering are unnecessary in
16 the first place; builders are being paid to build homes to the same level of efficiency they
17 would build to anyway. More importantly, Columbia has proven that it places more value
18 on the program as a competitive response tool than a legitimate energy efficiency
19 program. The program simply is not being used as advertised by Columbia or intended by
20 the Commission, and Delaware County is the last place in Ohio that needs ratepayer-
21 supplied energy efficiency funding in any event.

11 Ohio Power Siting Board Case No. 18-0054-GA-BLN, Letter of Notification for Del-Mar Pipeline Extension Project (March 2, 2018).

1 Finally, to prevent Columbia from profiting from its anti-competitive and predatory
2 conduct and to prevent further damage to Suburban, the Commission should order
3 Columbia to cease and desist from initiating any additional extension or expansion of its
4 duplicate pipeline along Cheshire Road.

5 **Q42. Are there grounds for Commission action before a final order is issued in this case?**

6 A. I believe there are. The facts surrounding Columbia's misuse and abuse of builder
7 incentives are undisputed. The paper trail is clear, and witness admissions unambiguous.
8 We expect Columbia to argue that these facts do not support the relief Suburban is
9 requesting, and that no law or regulation has been violated. But those arguments do not
10 change the underlying facts.

11 Time is of the essence, and immediate action is required.

12 **Q43. Would a construction delay impact service to customers?**

13 A. No. Construction in Phase 11 has not started. If this matter is resolved expeditiously, there
14 should be no delay in service to that subdivision.

15 **Q44. How does the level of incentives Columbia has paid in Delaware County compare to**
16 **incentives it has paid in other counties?**

17 A. That is a good question, and one Columbia refuses to publicly answer. I am advised by
18 counsel that Columbia has produced information disclosing the dollar value of incentives
19 paid in each county it serves for the years 2009 through 2017, along with the number of
20 homes attached to these incentives. Columbia, however, has designated this information
21 "Highly Confidential" under the parties' protective agreement. The protective agreement
22 allows each party to disclose "Confidential" information to witnesses, but only the
23 parties' counsel may review information designated "Highly Confidential." I am advised

1 that Suburban’s counsel has asked Columbia to withdraw the “Highly Confidential”
2 designation, but Columbia refuses. As a result, Suburban will address this topic at
3 hearing.

4 **Q45. Is Columbia’s designation of this information as “Highly Confidential” of any**
5 **significance to you?**

6 A. It certainly is. Remember, Columbia has always sold its incentive programs as a tool to
7 promote energy efficient construction. If this were Columbia’s true motive, one would
8 think Columbia would be more than happy to publicly disclose where it has used these
9 incentives. After all, the total amount of incentives Columbia is authorized to offer is a
10 matter of public record, and Suburban has merely asked for disclosure of where those
11 dollars have been spent, by county. Columbia’s refusal to disclose this information
12 publicly suggests that it is concerned the data may confirm what the evidence in this case
13 strongly implies—that builder incentives or rebates are being directed to counties where
14 Columbia wishes to gain a competitive advantage.

15 **Q46. Does this conclude your direct testimony?**

16 A. Yes, it does.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Testimony was served by electronic mail this
16th day of March, 2018, to the following:

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/s/ Mark A. Whitt
One of the Attorneys for Suburban Natural Gas
Company

Memorandum

SUBURBAN NATURAL GAS COMPANY

TO: File

FROM: Andrew J. Sonderman

DATE: October 25, 2016

SUBJECT: Meeting with Vince Romanelli, October 24, 2015

Dave Pemberton, Aaron Roll and I met with Mr. Romanelli and his operations director Chuck Orth at the R&H offices. The meeting was requested by Orth to discuss the availability of cash payments per lot in a 156 acre parcel south of Berlin Station Road and the Conrail tracks. Suburban serves Glenross immediately south and east of this parcel; preliminary grading and sewer work has commenced.

At the outset, Dave asked Vince if R&H has any problems or issues with Suburban's service. Vince and Chuck confirmed that there are no issues. Vince asked Aaron if Suburban has facilities in the vicinity of Pollack Road and Braumiller; Aaron responded that we stubbed out our 4 inch to the east of the Stockdale Farm property Romanelli has acquired, putting us in position to extend into Stockdale Farm and north into Terra Alta.

Turning to the parcel immediately at issue, Vince noted that he was anticipating a sale of lots in the 156 acres to Ryan Homes. Chuck Orth said he thought Ryan may think Columbia of Ohio will serve this plan, and that Ryan would qualify for a rebate under COH's Efficiency Crafted Homes program (currently under PUCO review, but previously approved) of \$800+ per lot. Chuck confirmed that Ryan had not inquired about this, and Chuck had not suggested that COH would be the gas utility for this plan.

Anticipating where this was going, Dave provided historical context of the development of Suburban's southern system, and the competition with Columbia to establish a foothold in the market. He noted that Suburban's hallmark has been outstanding, timely and flexible service to developers of plans—a level of service that Columbia has not matched. He noted COH's on again-off again incentives under different managements intended to “win” business, and stated that Suburban's unwavering position has been that it cannot provide cash incentives given our comparative resources. He noted our 2015 profits were less than

\$500,000. He pointed to Don Kenney as a developer who has repeatedly asked for cash incentives—and who would insist on similar treatment if any other developer was provided cash rebates by SNG. After hearing what our profit last year was, Vince asked about our sale of gas, to which Dave responded that we earn no margin on the gas we purchase on behalf of our customers, and that our earnings are based on our delivery service for the gas we distribute.

Vince noted that Columbia serves a plan immediately adjacent to this parcel west of Glenn Parkway. Ultimately, he asked what cash payments per lot Suburban was prepared to offer. Dave responded: “Nothing”. He reiterated that SNG cannot survive in a bidding war with COH based on such payments—and noted that SNG is prepared to litigate the rebate program Columbia has in place if it is used to compete for builders against SNG. COH is funding these rebates through a rider paid by its customers—its investors are not investing a dime. I noted that this rebate program is ostensibly intended to incentivize the qualifying builders to construct and equip homes that meet the “Energy Star” certification requirements established by the Department of Energy. However, qualifying builders, including R&H, are meeting those certification requirements in developments served by Suburban without such rebates.

Vince stated that he was to meet with Ryan representatives on October 25. Chuck Orth noted that R&H understands Suburban’s position and has to make a “business decision” on how to deal with Ryan’s potential demand for COH to serve this plan. Dave responded that while we didn’t prefer to rely on legal rights with respect to this specific tract of land, it is a fact that a 1988 right of way agreement granted Suburban the right to install the gas system to serve customers along streets established or dedicated by the owner (and R&H as successor) on this land. Neither Vince nor Chuck responded to this statement.

AJS

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Case No(s). 17-2168-GA-CSS

Summary: Text Direct Testimony of Andrew J. Sonderman electronically filed by Ms. Rebekah J. Glover on behalf of Suburban Natural Gas Company