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*File*

**RECEIVED**  
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DOCKETING DIVISION  
PUBLIC UTILITIES COMMISSION OF OHIO

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of )  
The Suburban Fuel Gas, Inc., )  
Complainant. )  
v. ) Case No. 86-1747-GA-CSS  
Columbia Gas of Ohio, Inc., )  
Respondent )  
Relative to various alleged )  
violations of the Ohio Revised Code )

APPLICATION FOR REHEARING  
OF THE  
OFFICE OF THE CONSUMERS' COUNSEL

WILLIAM A. SPRATLEY  
CONSUMERS' COUNSEL

Evelyn R. Robinson  
Trial Attorney  
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Date: September 3, 1987

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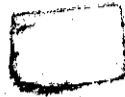
APPLICATION FOR REHEARING  
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The Office of the Consumers' Counsel (OCC), having entered an appearance in this proceeding on behalf of residential customers of both The Suburban Fuel Gas, Inc. (Suburban) and Columbia Gas of Ohio, Inc. (CGOH), and, pursuant to Section 4903.10, Ohio Rev. Code, applies for rehearing with respect to the matters set forth below, the matters having been determined by the Commission in its Opinion and Order entered in its Journal on August 4, 1987. OCC asserts that the Commission erred as follows:

1. The Commission erred in finding that it is appropriate for CGOH to offer CTAPA arrangements to existing and new customers as such arrangements are reasonable to maintain existing load and to attract new load.
2. The Commission erred in finding that Suburban did not meet its burden of proving that the CTAPA arrangements are unreasonable.

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These particular errors are more fully explained in the attached Memorandum.

Respectfully submitted,

WILLIAM A. SPRADLEY  
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MEMORANDUM IN SUPPORT

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Suburban Fuel Gas, Inc. (Suburban) filed a complaint against Columbia Gas of Ohio, Inc. (CGOH) on August 29, 1986. A hearing was held on May 7, 1987. The Commission issued its Opinion and Order on August 4, 1987. That Opinion and Order was in error in two respects.

I.

First, the Commission erred in finding that it is appropriate for Columbia to offer its Competitive Transportation and Agency Purchase Agreements to existing and new customers as such arrangements are reasonable arrangements to maintain existing load and to attract new load. Opinion and Order at 19. The Commission noted that the CTAPA arrangements allow CGOH to serve load that it otherwise would not serve (Id.).

OCC submits that, even in the competitive environment of the gas industry, the CTAPA arrangements are unlawfully discriminatory. As the record clearly indicates, the CTAPA arrangements are not offered to all general service customers who are similarly situated, *i.e.*, those to whom alternate sources of energy are available. Instead, the record shows that CGOH has offered the CTAPA arrangement on a selective basis. This selective offering of more favorable rates than

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specified under CGOH's filed tariffs constitutes unlawful discrimination.

Moreover, CGOH's CTAPA arrangements are in direct contravention of the purpose of Order No. 436 of the Federal Energy Regulatory Commission (FERC).<sup>1</sup> The purpose of Order No. 436 is to permit non-discriminatory access to the gas pipeline and to ensure that the benefits of competitively priced gas are available to all gas consumers without discrimination. This purpose was adopted pursuant to the mandate of the U.S. Court of Appeals in Maryland People's Counsel v. FERC, 761 F.2d 768, 761 F.2d 780, and 768 F.2d 450 (all D.C. Cir. 1985).

In addition, the CTAPA arrangements are contrary to the principles enunciated by the Federal Energy Regulatory Commission (FERC) in Consolidated Gas Transmission Corp., et al., 36 FERC 61,273; rehearing 39 FERC 61,112 (1987). In that case, FERC rejected a special discounted transportation rate proposed by Columbia Gas Transmission Corporation as being unduly discriminatory against existing customers who would not be eligible to apply for the same service and discounted transportation rate. 36 FERC at 61,668; 39 FERC at 61,419. The CTAPA program as operated by CGOH is similarly discriminatory toward residential customers who have no choice

<sup>1</sup> Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, FERC Stats. and Regs., Regulations Preambles 1982-1985 ¶30,665 (1985).

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but to pay the higher costs of CGOH's tariff and GCR, including the excise tax component.

For these reasons, OCC believes that the CTAPA arrangements are inherently, unlawfully discriminatory and should cease.

II.

Finally, the Commission erred by finding that Suburban has not met its burden of proving that the CTAPA arrangements are not reasonable. Given that OCC believes that the record evidence clearly shows that the CTAPA arrangement are discriminatory, OCC believes that the record evidence, therefore, shows that such arrangements are unreasonable.

III.

For the foregoing reasons, OCC requests that the Commission grant this Application for Rehearing and modify its Opinion and Order.

Respectfully submitted,

WILLIAM A. SPRATLEY  
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CERTIFICATE OF SERVICE

I hereby certify that copies of this Application for Rehearing of the Office of the Consumers' Counsel have been served by first class mail, postage prepaid, or hand delivered to the following parties of record this 3rd day of September, 1987.

Margaret Ann Samuels  
Margaret Ann Samuels  
Associate Consumers' Counsel

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Summary: Application Application for rehearing of the OCC filed by E. Robinson. electronically filed by Docketing Staff on behalf of Docketing