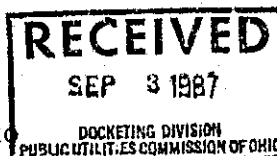


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*File*



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  
Margaret Ann Samuels  
Associate Consumers' Counsel

Office of the Consumers' Counsel  
137 East State Street  
Columbus, Ohio 43266-0550  
(614) 466-8574

Date: September 3, 1987

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APPLICATION FOR REHEARING  
OF THE  
OFFICE OF THE CONSUMERS' COUNSEL

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 arrangement 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  
CONSUMERS' COUNSEL

Evelyn R. Robinson /mas  
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Trial Attorney  
Margaret Ann Samuels  
Associate Consumers' Counsel

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MEMORANDUM IN SUPPORT

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  
CONSUMERS' COUNSEL

Evelyn R. Robinson / mac  
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Trial Attorney  
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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  
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