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FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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DOCKETING DIVISION  
PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the )  
Complaint of The Suburban Fuel )  
Gas, Inc., )  
Complainant, )  
vs. )  
Columbia Gas of Ohio, Inc., )  
Respondent. )

Case No. 86-1747-GA-CSS

MEMORANDUM CONTRA OF RESPONDENT  
COLUMBIA GAS OF OHIO, INC.

Now comes the Respondent, Columbia Gas of Ohio, Inc.  
(Columbia), and submits its memorandum contra the applications  
for rehearing filed on September 3, 1987, by The Suburban Fuel  
Gas, Inc. (Suburban) and the Office of Consumers' Counsel (OCC).

Both applications for rehearing are primarily directed  
at Columbia's Competitive Transportation and Agency Purchase  
Agreement (CTAPA) program. Suburban continues to argue that  
the program violates R.C. §4905.33, which prohibits utilities  
from charging less than actual cost for the purpose of destroying  
competition. Despite Suburban's extensive arguments on this  
point, there is absolutely no evidence in the record indicating  
that Columbia has furnished CTAPA service for less than actual  
cost, or that it has any intention of doing so. Nor is there  
any evidence showing that the CTAPA program, or any other Columbia

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program, was intended to destroy, rather than meet, competition. Suburban's arguments on this point are without merit, and should accordingly be rejected.

Both Suburban and OCC continue to argue that the CTAPA program is unlawfully discriminatory. Suburban suggests that the program would violate R.C. § 4905.33 unless CTAPA agreements were available to all general service customers "subject to competition," even if the customer had not demonstrated that it would otherwise not take service from Columbia. The sole purpose of the program is to serve load that would not otherwise be served, and there is no point in using the program where it is not needed for that purpose. The Commission expressly found that customers who would not otherwise be served constituted a reasonable customer classification under R.C. §4905.31(D). Opinion and Order, at 19. Since the classification is reasonable for purposes of R.C. §4905.31 (D), it is not violative of R.C. §4905.33.

In a similar vein, OCC argues that Columbia has not made CTAPA agreements available to all general service customers "to whom alternate energy sources are available." There is no allegation, however, that Columbia has failed to offer CTAPA agreements to any general service customer which would not otherwise have been served by Columbia. Columbia's implementation of the program has been fully consistent with the customer classification which the Commission has found to be reasonable.

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OCC further asserts that the CTAPA program is somehow inconsistent with the purpose of FERC Order No. 436. That is clearly not the case. In purpose and function, CTAPA agreements are conceptually similar to discounts offered by interstate pipelines to attract new loads or retain existing ones. Order No. 436 expressly authorizes such discounts. Furthermore, even if the program were inconsistent with Order No. 436, that would not render it unlawful under the relevant Ohio statutes.

Finally, OCC contends that the program unduly discriminates against residential and other customers who are not eligible for this service. The authorities cited in Columbia's post-hearing brief at pp. 19-25 demonstrate that charging special rates or offering special services in competitive situations does not constitute undue or unreasonable discrimination. In addition, this argument continues to ignore that fact that CTAPA customers represent loads that would not otherwise be served by Columbia. If those loads were lost to competitors, the remaining customers, including the residential customers, would pay higher rates as a result of the need to spread fixed costs over a smaller customer base.

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For the foregoing reasons, Columbia submits that the  
applications for rehearing filed by Suburban and OCC should  
be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum  
Contra was served upon the parties listed below by regular U.S.  
Mail this 10th day of September, 1987.

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Summary: Memorandum Memorandum contra of respondent Columbia Gas of Ohio, Inc., filed by K. Christman. electronically filed by Docketing Staff on behalf of Docketing