

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Co-)	
Columbia Gas of Ohio, Inc. for Authority)	
to Amend its Filed Tariffs to Increase the)	Case No. 21-637-GA-AIR
Rates and Charges for Gas Services and)	
Related Matters.)	

In the Matter of the Application of Co-)	
Columbia Gas of Ohio, Inc. for Approval of)	Case No. 21-638-GA-ALT
an Alternative Form of Regulation.)	

In the Matter of the Application of Co-)	
Columbia Gas of Ohio, Inc. for Approval of)	
a Demand Side Management Program)	Case No. 21-639-GA-UNC
for its Residential and Commercial Cus-)	
tomers.)	

In the Matter of the Application of Co-)	
Columbia Gas of Ohio, Inc. for Approval to)	Case No. 21-640-GA-AAM
Change Accounting Methods.)	

**COLUMBIA GAS OF OHIO, INC.'S
MEMORANDUM CONTRA
MOTION OF INTERSTATE GAS SUPPLY, INC.
TO STRIKE REPLY MEMORANDUM
IN SUPPORT OF COLUMBIA'S MOTION TO STRIKE**

Interstate Gas Supply, Inc. ("IGS") moved to intervene in these proceedings last August. At that time, it told this Commission that it was intervening "to ensure that the portions of Columbia's [Columbia Gas of Ohio, Inc.'s] application that may impact competitive market conditions do not violate Ohio law and policy and/or the Commission's rules." (IGS Mem. Supp. Mot. to Intervene at 5-6 (Aug. 18, 2021).) IGS explained that it "has a substantial interest in this proceeding" because "Columbia's proposed Carbon Reduction Rider could directly impact the integrity and balance of the competitive market," and that "[o]ther elements of Columbia's application may impact Choice program administration." (*Id.* at 6-7.)

And IGS stated that “its participation in this proceeding [would] not cause undue delay * * * and [would] contribute to the just and expeditious resolution of the issues and concerns raised in this proceeding.” (IGS Mot. to Intervene at 3.) As such, Columbia did not oppose IGS’s motion to intervene.

In May, however, IGS changed its focus from Columbia’s Application. Among the eight Objections it filed, IGS included two objections that had nothing to do with Columbia’s Application: Objection 4, which complained that neither Columbia nor Staff had proposed that Columbia exit the merchant function for non-residential customers; and Objection 5, which complained that neither Columbia nor Staff had proposed to eliminate Columbia’s “switching fee” for competitive retail natural gas service (“CRNGS”) suppliers. (See IGS Objections at 6-8 (May 6, 2022).) And when Columbia moved to strike those two objections, IGS asserted that Columbia’s Application did *not*, in fact, “dictate[] what parties may address” in these proceedings; instead, IGS believes itself able to litigate other issues it deems sufficiently related to the Application. (IGS Memo Contra Motion to Strike at 3.)

Not content with expanding the scope of this proceeding to address matters more properly raised in a complaint or exemption case, IGS has also filed a motion to strike challenging Columbia’s reply memorandum, which does little to promote the expeditious resolution of these proceedings. This motion, which, ironically, includes an improper sur-reply to Columbia’s reply memorandum (Mem. Supp. IGS Mot. to Strike at 6-7 and n.19), ignores the Commission’s motion practice. IGS’s motion to strike rests on two propositions of law: (1) a procedural entry that does not mention reply memoranda necessarily bars such filings, *sub silentio*; and (2) the Commission has authority to strike reply memoranda if they repeat arguments that were raised in the original motion. (See *id.* at 3-7.) IGS offers no support for either proposition.

According to IGS, the Commission’s April 14th Entry barred reply memoranda because it failed to specifically authorize them. (See Mem. Supp. IGS Mot. to Strike at 3-4.) But the Commission’s rules do not require a party to seek permission to file a reply memorandum. Under the Commission’s rule for motions, unless the moving party requests an expedited ruling or the Commission issues an expedited ruling on its own, “[a]ny party may file a reply memorandum within seven days after the service of a memorandum contra, or such other period as the commission * * * requires.” (Emphasis added.) Ohio Adm.Code 4901-1-12(B)(2). That rule “appl[ies] to all entities participating in cases before the commission.” Ohio Adm.Code 4901-1-38(A). IGS asserts that the April 14th Entry somehow “took this

proceeding out of the coverage of Rule 4901-1-12(B)(1) and (2)” (Mem. Supp. IGS Mot. to Strike at 3), but the Entry says nothing of the sort. And Rule 4901-1-12(B)(2) could not be waived absent “good cause” (Ohio Adm.Code 4901-1-38(B)), which the April 14th Entry does not identify.

With regard to IGS’s second point, Columbia’s reply memorandum does not repeat arguments made in its opening motion. Instead, Columbia’s reply addresses and rebuts the arguments raised in IGS and RESA’s memoranda contra, which were not (and could not have been) addressed in the opening motion. Regardless, nothing in the Commission’s rules permits the striking of reply memoranda that fail to tread sufficiently new ground. IGS notes one case in which the Commission declined to permit reply *comments* on a Staff investigative report (because the Commission had not explicitly authorized them), and a few cases in which the Commission has declined to permit replies in support of *applications for rehearing* (because the Commission’s rules do not permit them¹). But IGS cites no cases in which the Commission struck a reply *memorandum* in further support of a motion. (See Mem. Supp. IGS Mot. to Strike at 4-6.) Unlike reply comments or replies in support of an application for rehearing, the Commission’s rules expressly permit reply memoranda in support of an opposed motion.

In sum, IGS’s motion rests on an interpretation of the April 14th Entry that finds no support in its actual text, and an interpretation of the Commission’s rules that finds no support in the regulatory language or Commission precedent. For all of the reasons provided above, Columbia Gas of Ohio, Inc. respectfully requests that the Commission deny the Motion to Strike of Interstate Gas Supply, Inc.

¹ See Ohio Adm.Code 4901-1-35(A)-(B) (permitting the filing of applications for rehearing and memorandum contra, but no reply memoranda).

Respectfully submitted,

/s/ Joseph M. Clark

Joseph M. Clark, Asst. Gen. Counsel
(0080711) (Counsel of Record)

John R. Ryan, Sr. Counsel (0090607)

P.O. Box 117

290 W. Nationwide Blvd.

Columbus, Ohio 43216-0117

Telephone: (614) 813-8685

(614) 285-2220

E-mail: josephclark@nisource.com

johnryan@nisource.com

Eric B. Gallon (0071465)

Mark S. Stemm (0023146)

L. Bradfield Hughes (0070997)

Devan K. Flahive (0097457)

Porter, Wright, Morris & Arthur LLP

41 South High Street

Columbus, Ohio 43215-6194

Telephone: (614) 227-2000

Email: egallon@porterwright.com

mstemm@porterwright.com

bhughes@porterwright.com

dflahive@porterwright.com

(Willing to accept service by e-mail)

Attorneys for

COLUMBIA GAS OF OHIO, INC.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via electronic mail on the 3rd day of June, 2022, upon the parties listed below.

Citizens' Utility Board of Ohio	Trent Dougherty trent@hubaydougherty.com
Environmental Law & Policy Center	Janean R. Weber jweber@elpc.org
Industrial Energy Users-Ohio	Matthew R. Pritchard Bryce A. McKenney McNees Wallace & Nurick LLC mpritchard@mcneeslaw.com bmckenney@mcneeslaw.com
Interstate Gas Supply, Inc.	Michael Nugent Evan Betterton Joseph Oliker michael.nugent@igs.com evan.betterton@igs.com joe.oliker@igs.com
The Kroger Company	Angela Paul Whitfield Carpenter Lipps & Leland LLP paul@carpenterlipps.com
Northeast Ohio Public Energy Council	Devin D. Parram BRICKER & ECKLER LLP dparram@bricker.com Glenn S. Krassen gkrassen@nopec.org

Office of the Ohio Consumers' Counsel	<p>Angela D. O'Brien William J. Michael Assistant Consumers' Counsel angela.obrien@occ.ohio.gov william.michael@occ.ohio.gov</p> <p>Brian M. Zets bzets@isaacwiles.com</p>
Ohio Energy Group (OEG)	<p>Michael L. Kurtz, Esq. Kurt J. Boehm, Esq. Jody Kyler Cohn, Esq. BOEHM, KURTZ & LOWRY mkurtz@BKLawfirm.com kboehm@BKLawfirm.com jkylercohn@BKLawfirm.com</p>
Ohio Manufacturers' Association Energy Group	<p>Kimberly W. Bojko Jonathan Wygonski Carpenter Lipps & Leland LLP Bojko@carpenterlipps.com Wygonski@carpenterlipps.com</p>
Ohio Partners for Affordable Energy	<p>Robert Dove Kegler Brown Hill + Ritter Co., L.P.A. rdove@keglerbrown.com</p>
Ohio School Council	<p>Glenn S. Krassen BRICKER & ECKLER LLP gkrassen@bricker.com</p> <p>Dane Stinson BRICKER & ECKLER LLP dstinson@bricker.com</p>
Retail Energy Supply Association	<p>Michael J. Settineri Gretchen L. Petrucci Vorys, Sater, Seymour and Pease LLP mjsettineri@vorys.com glpetrucci@vorys.com</p>

/s/ Joseph M. Clark
Joseph M. Clark

Attorney for
COLUMBIA GAS OF OHIO, INC.

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Summary: Memorandum Contra Motion of Interstate Gas Supply, Inc. to Strike
Reply Memorandum in Support of Columbia's Motion to Strike electronically filed by
Mr. Eric B. Gallon on behalf of Columbia Gas of Ohio, Inc.