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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Commission's )  
Investigation of the Customer Choice ) Case No. 98-593-GA-COI  
Program of Columbia Gas of Ohio, Inc. )

In the Matter of the Commission's )  
Investigation of the Energy Choice ) Case No. 98-594-GA-COI  
Program of the East Ohio Gas Company. )

In the Matter of the Commission's )  
Investigation of the Customer Choice ) Case No. 98-595-GA-COI  
Program of the Cincinnati Gas & Electric )  
Company. )

In the Matter of the Application of The )  
Cincinnati Gas & Electric Company for ) Case No. 98-1167-GA-ATA  
Approval of Certain Text and Language )  
Changes Within its Gas Tariff, and Setting )  
The Effective Date for the Affected )  
Schedules )

In the Matter of the Commission's )  
Investigation and Further Consideration )  
Of the Language Set Forth in the Tariffs ) Case No. <sup>99</sup>96-661-GA-ATA  
Of Columbia Gas of Ohio, Inc., The East )  
Ohio Gas Company, and The Cincinnati )  
Gas & Electric Company Regarding the )  
Enforcement of the Marketer Codes of )  
Conduct for the Customer Choice )  
Programs. )

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**REPLY OF  
THE CINCINNATI GAS & ELECTRIC COMPANY TO THE IMPROPER  
MEMORANDUM CONTRA OF UNITED GAS MANAGEMENT INC.**

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The Cincinnati Gas & Electric Company respectfully requests that  
the Public Utilities Commission of Ohio (Commission) reject, as

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Technician *Anna M. Hix* Date Processed *March 10, 2000*

improperly filed, the alleged Memorandum Contra of United Gas Management Inc., (UGM), filed with the Commission on March 2, 2000. UGM's Memorandum Contra was improperly filed because UGM failed to use the proper form for such a pleading and failed to properly service the alleged Memorandum Contra.

All pleadings before the Commission a caption or cover sheet containing the name of the Commission. Ohio Admin. Code § 4901-1-03(A) (Baldwin's 2000). UGM's alleged Memorandum Contra does not contain such a caption or cover page. The required caption or cover page must also contain the title of the proceeding. *Id.* UGM's alleged Memorandum Contra does not contain the title of the proceeding anywhere within the document. Finally, UGM did not properly service the alleged Memorandum Contra.

Pleadings before the Commission must include a Certificate of Service listing and served upon all parties to the proceeding. Ohio Admin. Code § 4901-1-05 (Baldwin's 2000). UGM's alleged Memorandum Contra did not contain a Certificate of Service. Therefore, the copy received by CG&E on March 6, 2000, did not indicate service upon any of the many parties in these cases. Failure of service is more than a technical error. It is a substantive procedural error that requires the Commission to reject the filing.

Additionally, each and every defect raised by UGM concerning CG&E's Application for Rehearing is factually incorrect. First, UGM incorrectly alleges that CG&E filed its Application for Rehearing out of time. CG&E has thirty days from the date of the Commission's Entry on Rehearing to file its Application for Rehearing. Ohio Admin. Code § 4901-1-35 (Baldwin's 2000). The Commission's docketed its Entry on Rehearing in these cases on January 20, 2000. The thirtieth day after the issuance of the Entry on Rehearing was Saturday, February 19, 2000. The Commission was not open for business on Saturday February 19, Sunday, February 20, or Monday February 21. The Commission was closed on Monday, February 21, due to a legal holiday, President's day. CG&E timely filed its Application for Rehearing on February 22.

While UGM makes no argument in support of its contention that CG&E filed out of time; OAC 4901-1-35 and the Commission's Order promulgating OAC 4901-1-35 make it clear that CG&E timely filed its Application for Rehearing. Section 4901-1-35 does not apply the time requirements of 4901-1-07. Ohio Admin. Code § 4901-1-35 (Baldwin's 2000). However, in enacting OAC 4901-1-35 the Commission stated: "Where the thirtieth day falls on a Saturday, Sunday or legal holiday, the party making the filing has until the next business day to make the filing." *In the Matter of the Amendment of Chapters 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 95-985-AU-ORD

(Commission Entry, March 21, 1996). Since CG&E filed its Application for Rehearing on the first business day following the thirtieth day, its Application for Rehearing was timely filed.

Similarly, UGM's allegation that CG&E's Application for Rehearing raises no new issues not previously addressed by the Commission is incorrect. The Commission's prior Order and Entry on Rehearing did not address the procedural issues raised by CG&E. Neither did the Commission address the issue of its jurisdiction over CG&E's non-utility business practices. Both issues remain ripe for the Commission to rule.

Finally, CG&E takes exception to UGM's characterization of CG&E's ability to change its information systems to accommodate the purchase of receivables. The Staff is well aware of CG&E's system change to prevent customers with arrearages from switching to a gas marketer to purchase commodity. This change is consistent with CG&E's filed tariff and reduces financial risks for CG&E and gas marketers. Such a change may have been unnecessary if UGM, like most other gas marketers, maintained adequate backroom operations to turn back customers in a timely manner without CG&E's assistance. Even after two years of discussion UGM continues to retain customers that do not pay their bills. It is but one example of UGM's continuing irresponsible behavior as a gas marketer.

CG&E continues to discuss solutions to this issue with Staff and UGM. CG&E hopes that it can resolve the receivables issue. As it works toward a solution, for the reasons stated above, CG&E respectfully requests that the Commission consider its Application for Rehearing and rejects as improperly filed, UGM's alleged Memorandum Contra.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

This certifies that a copy of the foregoing was served by hand or regular U.S. mail on all parties listed on the attached service list this 9th day of March, 2000.



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