



Accordingly, the above-cited portions of Mr. Haugh's testimony should be stricken. The facts and arguments that support this motion are set forth in the attached Memorandum in Support.

Respectfully Submitted,



Michael J. Settineri (0073369), Counsel of Record  
Stephen M. Howard (0022421)  
Gretchen L. Petrucci (0046608)  
VORYS, SATER, SEYMOUR AND PEASE LLP  
52 East Gay Street / P.O. Box 1008  
Columbus, Ohio 43216-1008  
Tel. (614) 464-5462  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)  
[smhoward@vorys.com](mailto:smhoward@vorys.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)

*Attorneys for the Retail Energy Supply Association*

## MEMORANDUM IN SUPPORT

In accordance with the procedural schedule established in this proceeding, the Office of the Ohio Consumers' Counsel ("OCC") filed the Direct Testimony of Michael P. Haugh on March 21, 2016, in this proceeding. Mr. Haugh states that the purpose of his testimony is to "include recommendations for fair outcomes for Ohio consumers, regarding the Stipulation in this case, under the PUCO's three-pronged test for evaluating settlements."<sup>2</sup> To that end, Mr. Haugh recommends (1) Duke provide at least annually a comparison of the bill impacts of its GCR rate to the rates paid by customers who purchase their natural gas from a marketer, and (2) Duke file a report with the Commission identifying the estimated increase in costs of the expected KO Transmission rate case at the Federal Energy Regulatory Commission.

- A. The provision of market information, as recommended by Mr. Haugh, is wholly separate from the gas purchasing practices and policies of Duke during the audit period, which is the purpose of this proceeding.**

Mr. Haugh seeks to expand the purpose of this proceeding by requiring that Duke take on the additional role of providing certain specified data about shopping to Duke's customers.<sup>3</sup> While Mr. Haugh argues that customers need this information, this proceeding is not intended to analyze, debate, or modify the educational information provided to customers under the Gas Choice Program in Duke's service territory. Mr. Haugh even recognizes in his direct testimony that the purpose of this proceeding is to audit the purchasing practices and policies of Duke.<sup>4</sup>

Mr. Haugh's first recommendation is beyond the scope of this proceeding as evidenced by the Request for Proposal ("RFP") issued by the Commission on February 25, 2015. The RFP

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<sup>2</sup> Haugh Direct Testimony at 2.

<sup>3</sup> This irrelevant testimony is contained on pages 3-4, 6-11 and MPH Exhibit 1, as outlined above.

<sup>4</sup> Haugh Direct Testimony at 2.

specifically identifies the purpose of the Management/Performance Audit as:<sup>5</sup>

- An investigation of Duke's Management Policies and Operational Procedures
- A determination of the Company's effectiveness in fuel procurement to achieve an adequate and reliable supply of natural gas at minimum prices
- An examination of capacity entitlements to ensure the appropriate levels are maintained to meet Duke's service requirements and obligations
- An assessment of Duke's sales and transportation service offering to ensure the appropriate allocation of costs exists between sales and transportation customers and any adverse impact of transportation customers on sales customers is minimized.

Nothing in the plain language of the RFP is intended to open this gas cost recovery proceeding to an analysis, debate, or modification of the educational information provided to customers relative to the Gas Choice Program in Duke's service territory.

Moreover, nothing in the Commission's other rulings in this proceeding have opened up the issues in this matter to include an analysis, debate, or modification of the educational information provided to customers relative to the Gas Choice Program in Duke's service territory. His testimony regarding a prior Staff publication (pages 7-8), Columbia Gas of Ohio, Inc. ("Columbia") shadow billing (pages 9-10 and MPH Exhibit 1), and a New York Public Service Commission's order have no bearing on the actual issues under consideration by the Commission in this proceeding. While the points may be important to Mr. Haugh and the OCC, there is no basis for the presentation of irrelevant direct testimony in this proceeding.

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<sup>5</sup> Management/Performance RFP at 1.

**B. The Columbia Shadow-Billing Data is Hearsay and Should be Stricken.**

In addition, Mr. Haugh includes hearsay in his testimony on (a) Page 9, Lines 16-18; (b) Page 10, Lines 1-3; and (c) MPH Exhibit 1. In this portion of his testimony, Mr. Haugh describes the shadow-billing information acknowledging that it is prepared by a third-party, outside of this proceeding. In footnote 9, Mr. Haugh acknowledges that Columbia performs the shadow-billing analysis.<sup>6</sup> Mr. Haugh also acknowledges that he is presenting the information for the truth of the matters contained in the shadow-billing information when he states that he is aware of other Ohio data about consumers saving money:<sup>7</sup>

Columbia's current shadow-billing analysis (attached as MPH Exhibit 1) provides data showing how much consumers would have saved by purchasing natural gas through Columbia instead of choosing a marketer. According to Columbia's recent shadow-billing data, Columbia consumers who shopped with a marketer paid \$1.358 billion more than the cost of the Columbia-provided gas service, from 1997 to 2016. (See attached MPH Exhibit 1.)

This portion of the testimony and MPH Exhibit 1 is classic hearsay and none of the recognized exceptions to the hearsay rule apply. If MPH Exhibit 1 is admitted, no party will have the opportunity to cross examine or conduct discovery on the entity that purportedly compiled the data, as Columbia is not a party to this proceeding. Thus, there is no opportunity to question the veracity of the data or question the components that may or may not be utilized to construct the analysis submitted in MPH Exhibit 1. Further, MPH Exhibit 1 does not meet any of the hearsay exceptions as the data is not publicly published by a public entity.

As a result, in addition to being irrelevant to this proceeding, Mr. Haugh's testimony on Page 9, Lines 16-18; Page 10, Lines 1-3; and MPH Exhibit 1 should be also stricken on impermissible hearsay grounds.

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<sup>6</sup> Haugh Direct Testimony at 9.

<sup>7</sup> *Id.* at 9-10 (footnote omitted).

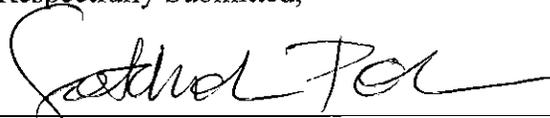
**C. Mr. Haugh is not qualified to opine upon the statutory policy of the State of Ohio and whether his recommendations in this proceeding meet the State's policy.**

On Page 13 of Mr. Haugh's Direct Testimony, he includes language from two provisions of the Ohio Electric Policy which are codified in Ohio Revised Code Section 4929.02(A). Mr. Haugh then proceeds to express his own opinion as to what the policy of Ohio is and how his testimony meets the State Policy. This portion of the testimony sets forth legal opinions. From a review of Mr. Haugh's background and education (which is reflected on Pages 1-2 of his Direct Testimony), it appears he is not an attorney and therefore is unqualified to opine on the State Electric Policy and whether his recommendations in this proceeding satisfy the policy. Moreover, the two sections of the Ohio Electric Policy that are reflected in Mr. Haugh's testimony speak for themselves. As a result, Lines 11-16 on page 13 should be stricken.

**D. Conclusion**

For all of the foregoing reasons, the above-designated portions of Mr. Haugh's Direct Testimony should be stricken from this proceeding.

Respectfully Submitted,



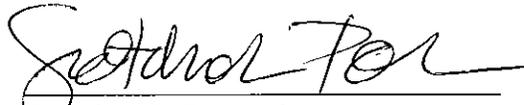
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Michael J. Settineri (0073369), Counsel of Record  
Stephen M. Howard (0022421)  
Gretchen L. Petrucci (0046608)  
VORYS, SATER, SEYMOUR AND PEASE LLP  
52 East Gay Street / P.O. Box 1008  
Columbus, Ohio 43216-1008  
Tel. (614) 464-5462  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)  
[smhoward@vorys.com](mailto:smhoward@vorys.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)

*Attorneys for the Retail Energy Supply Association*

**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 19<sup>th</sup> day of April 2016 upon the persons listed below.

  
Gretchen L. Petrucci

Amy B. Spiller  
Elizabeth H. Watts  
Duke Energy Business Services, LLC  
139 E. Fourth Street, 1303-Main  
P.O. Box 961  
Cincinnati, OH 45201-0960  
[Amy.spiller@duke-energy.com](mailto:Amy.spiller@duke-energy.com)  
[Elizabeth.watts@duke-energy.com](mailto:Elizabeth.watts@duke-energy.com)

Thomas McNamee  
Natalia Messenger  
Assistant Attorneys General  
180 E. Broad St., 6<sup>th</sup> Floor  
Columbus, OH 43215-3793  
[thomas.mcnamee@puc.state.oh.us](mailto:thomas.mcnamee@puc.state.oh.us)  
[natalia.messenger@puc.state.oh.us](mailto:natalia.messenger@puc.state.oh.us)

Joseph Olikier  
IGS Energy  
6100 Emerald Parkway  
Dublin, OH 43016  
[joliker@igsenergy.com](mailto:joliker@igsenergy.com)

William J. Michael  
Ajay Kumar  
Office of the Ohio Consumers' Counsel  
10 W. Broad St., Suite 1800  
Columbus, OH 43215  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[ajay.kumar@occ.ohio.gov](mailto:ajay.kumar@occ.ohio.gov)

Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, OH 45839-1793  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)