

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbia Gas of Ohio, Inc., for Approval)
of a General Exemption of Certain Natural)
Gas Commodity Sales Services or)
Ancillary Services from Chapters 4905,) Case No. 08-1344-GA-EXM
4909, and 4935 except Sections 4905.10,)
4935.01, and 4935.03, and from specified)
sections of Chapter 4933 of the Revised)
Code.)

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MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

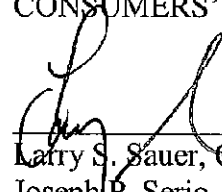
The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this utility case related to the Company's application ("Application") filed January 30, 2009, in which the Company is proposing to implement a wholesale gas supply auction to replace the current method by which COH purchases natural gas that is sold to residential and certain other customers. OCC is filing on behalf of all the approximately 1.3 million residential utility consumers of Columbia Gas of Ohio, Inc. ("COH" or "Company"),¹ and moves the Public Utilities Commission of Ohio ("Commission" or "PUCO") to grant the OCC's intervention in the above-captioned proceeding, pursuant to R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. The reasons for granting the OCC's Motion are further set forth in the attached Memorandum in Support.

¹ www.puco.ohio.gov/emplibrary/files/util/utilitiesdeptreports/mar08%20choice%enrollment.pdf

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Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Larry S. Sauer", is written over a horizontal line.

Larry S. Sauer, Counsel of Record
Joseph P. Serio
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-8574 (Telephone)

(614) 466-9475 (Facsimile)

sauer@occ.state.oh.us

serio@occ.state.oh.us

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MEMORANDUM IN SUPPORT

The Company's Application proposes to replace the current method by which COH purchases the natural gas that is sold to Ohio customers, under R.C. 4905.302, the purchased gas adjustment clause, with the implementation of a standard service offer ("SSO") wholesale auction procedure to secure the gas supply required to serve its sales customers.² Pursuant to R.C. Chapter 4911, the OCC moves to intervene under its legislative authority to represent the interests of all the approximately 1.3 million COH residential natural gas utility customers.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially since the Company admitted in its Application: "the Stakeholders³ have not reached a consensus to the matters addressed in the Application;" resulting in the Application

² Application at 3.

³ The Stakeholder group consists of OCC, the Commission Staff, all COH Choice and transportation suppliers, other interested suppliers, the Ohio Farm Bureau Federation, Ohio Partners for Affordable Energy, various industrial customers, and schools.

presenting the issues in a light most favorable to COH.⁴ The objective of the Application is for COH to obtain gas supplies from alternative suppliers and pass the price of that gas on to its sales customers at a monthly rate called the SSO.⁵ The structure of the wholesale auction will have a direct impact on the price of gas charged to COH's residential consumers, thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is in establishing a wholesale auction process that will elicit the lowest gas price possible. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for consumers will include advancing the position that COH's rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. OCC's position is therefore directly related to

⁴ Application at 2.

⁵ Application at 3-4 (Columbia proposes implementing two consecutive one-year long SSO periods with gas to start flowing under the auction price April, 2010.).

the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case. The nature and extent of OCC's interest lies in preventing excessive or unjustified charges for residential natural gas commodity service and assuring that the provision of natural gas services will effectively and efficiently serve the energy needs of COH's residential consumers.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it

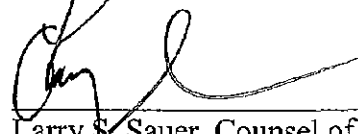
uniquely has been designated as the state representative of the interests of Ohio's residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.⁶

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



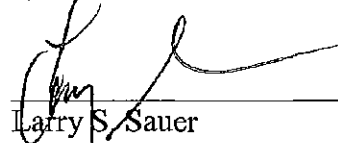
Larry S. Sauer, Counsel of Record
Joseph P. Serio
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 (Telephone)
(614) 466-9475 (Facsimile)
sauer@occ.state.oh.us
serio@occ.state.oh.us

⁶ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶13-20 (2006).

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below via first class U.S. Mail, postage prepaid, this 11th day of February 2009.



Larry S. Sauer
Assistant Consumers' Counsel

SERVICE LIST

Stephen B. Seiple, Esq.
Daniel A. Creekmur, Esq.
Columbia Gas of Ohio, Inc.
200 Civic Center Drive
P.O. Box 117
Columbus, OH 43216-0117

Stephen Reilly, Esq.
John Jones, Esq.
Attorney General's Office
Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, Ohio 43215