

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)
Ohio School consortium for a Requested) Case No. 11-6011-GA-WVR
Clarification of Waiver.)

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

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the 1.2 million residential customers of Columbia Gas of Ohio, Inc. ("Columbia" or "Company"), moves to intervene in this case where the Ohio School Consortium ("Schools" or "Applicant") seeks a waiver from the requirement to buy Standby Service from Columbia.¹ If the Applicant's requested waiver is granted, Columbia may seek to collect, from other Columbia customers such as residential customers, the cost of the Standby Service that the Applicant would avoid paying. Columbia has emphasized, in its opposition to the Schools' request, that a prior settlement already resolved this issue and does not provide for the benefits that the Schools now seek.² The reasons the Public Utilities Commission of Ohio ("Commission" or "PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

² Columbia Memo Contra to Applicant's Waiver Request at 4 (January 5, 2012).

Respectfully submitted,

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On December 21, 2011, the Applicant filed a request for clarification or, in the alternative, for a waiver permitting them to continue transportation service without having to buy Standby Service from Columbia.³ Standby Service costs approximately \$0.80 per Mcf, and provides a customer with gas service at all times, except where interruption is necessary due to force majeure conditions or where service to Non-transportation Service human needs customers is threatened.⁴

If the Applicant's Waiver is granted, Columbia may potentially seek to recover the cost of the Standby Service the Applicant's members avoid paying, from other Columbia customers such as residential customers. But the obligation of transportation customers -- such as the Applicant's members -- to pay the Standby Service charge is stated clearly in the Stipulation and Recommendation that resulted in the settlement of Case No. 08-1344-GA-EXM.⁵ The Commission approved that Stipulation on December

⁴ Id. See also, Columbia Rules and Regulations Governing the Distribution and Sale of Gas, Third Revised Sheet No. 62 (Issued December 30, 2011, Effective April 1, 2012).

⁵ *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*, Case No. 08-1344-GA-EXM, Stipulation and Recommendation at 12 (October 7, 2009). (The Stipulation provides an exemption to the public schools in that case from the requirement to buy Standby Service. The Applicant, which includes libraries and private schools, is now seeking a similar exemption but one that was not provided for the 2009 settlement.)

2, 2009, and it remains in effect until March 31, 2013. The OCC has an interest in assuring the Commission enforces Stipulations without modification during the term of the stipulation. Moreover, OCC has an interest in protecting residential customers from paying the costs of other customer classes. OCC has authority under law to represent the interests of all the approximately 1.2 million residential utility customers of Columbia, pursuant to R.C. Chapter 4911.

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 customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding that could result in higher costs for natural gas distribution service. 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 representing the residential customers of Columbia in this case where the Applicant is seeking to avoid paying certain of the costs of its service. That request, if granted, could result in other

customers, such as residential customers, paying the costs for those customers (not that OCC concedes such a result). 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 residential customers will include advancing the position that the Commission should enforce the Stipulation that is in effect and that settled this issue without allowing for the benefits that the Applicant now seeks. Columbia has opposed the Schools' request based on that prior settlement.⁶ And OCC's advocacy will include protecting Ohio consumers from paying the costs of other customer classes. OCC's position is therefore directly related to 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 Adm. 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-

⁶ Columbia Memo Contra to Applicant's Waiver Request at 4 (January 5, 2012).

11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where the Applicant's request could result in shifting of Standby Service costs from the Applicant to other customers such as residential customers.

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 customers. 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 deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁷

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 customers, the Commission should grant OCC's Motion to Intervene.

⁷ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* electronic service this 12th day of January 2012.

/s/ Larry S. Sauer

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/12/2012 4:07:50 PM

in

Case No(s). 11-6011-GA-WVR

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Sauer, Larry S.