

In the Matter of the Joint Motion to)
 Modify the December 2, 2009 Opinion) Case No. 12-2637-GA-EXM
 and Order and the September 7, 2011)
 Second Opinion and Order in Case No.)
 08-1344-GA-EXM)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case. The Public Utilities Commission of Ohio (Commission" or "PUCO") has been asked - in a settlement principally signed by the PUCO Staff, the natural gas utility and marketers - to establish the circumstances under which Columbia Gas of Ohio, Inc. ("Columbia" or "the Company") may file an application to exit its merchant function for customers -- both residential and non-residential.

Columbia’s exit from the merchant function, if it were to occur in the future, would result in customers no longer having the option of taking a utility-provided default service -- in this case the Standard Choice Offer (“SCO”). The SCO is a market-based rate established through an open auction process that has been incredibly successful in providing Ohioans with a low-priced option for natural gas. Instead, if an exit were to occur in the future, customers would be required to take service from one of the marketers that signed the settlement or other marketers.

There are other important issues affecting customers' rates as well. Those issues include the stipulators' proposed allocation of the revenues from off-system sales in a way

that provides insufficient benefits to customers and the extent to which the proposed renewal of upstream interstate pipeline capacity from Columbia's own affiliates (with the associated costs for customers) is needed to provide service at just and reasonable rates.

OCC is filing on behalf of all the approximately 1.2 million residential utility customers of Columbia. The reasons the Commission should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

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The potential exit from the merchant function by a local distribution company (“LDC”) is one of the most significant issues facing natural gas customers today. Thus, this case that could establish the parameters under which Columbia may someday file to exit from the merchant function is of paramount importance to 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 customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding where the parameters of a potential future exit from the merchant function are proposed for possibly leading to the end of the very successful current program of retail auctions that have reduced Ohioans’ natural gas bills. There are other important issues as well where consumers could be adversely affected.

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 issues include, but are not limited to, the prerequisites for a potential future exit from the merchant function. 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 affiliates and stockholders.

Second, OCC's advocacy for residential customers will include advancing positions on behalf of consumers. These legal positions, for example, will include protecting consumers under law, policy and rule regarding the stipulators' proposals to establish prerequisites for an exit from the merchant function. Also, OCC's legal positions will include advocating for consumers to be given a fair benefit from Columbia's use of the assets paid for by customers, to make off-system sales. And OCC will advocate, among other things, for protecting consumers against paying for any unneeded pipeline capacity that Columbia purchases from its own affiliate. 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 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 advocate for residential utility customers, OCC has a very real and substantial interest in this case where issues include, but are not limited to, what OCC has already described.

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, especially in light of the fact that none of the Joint Movants is solely concerned with the best interest of the customers that will be impacted by the terms of the Joint Stipulation.

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.¹

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.

Respectfully submitted,

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¹ See *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* electronic service this 5th day of October 2012.

/s/ Joseph P. Serio

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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.