

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)
Approval of an Economic)
Development Project: Sofidel Pipeline)
Project.)

Case No. 16-2069-GA-EDP

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where a gas utility seeks authority to incur and later collect from customers \$2.5 million for an economic development project.¹

The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair
Jodi Bair, (0062921) Counsel of Record
Ajay Kumar (0092208)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: Bair – (614) 466-9559
Telephone: Kumar – (614) 466-1292
Jodi.bair@occ.ohio.gov
Ajay.kumar@occ.ohio.gov
(will accept service via email)

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

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MEMORANDUM IN SUPPORT WITH COMMENTS

I. INTRODUCTION

On October 21, 2016, Columbia Gas of Ohio, Inc. (“Columbia” or “Utility”) filed an application to create a new Infrastructure Development Rider (“IDR”)(according to Ohio law)² to collect from consumers certain economic development costs. That application is pending with the PUCO.

On October 24, 2016, Columbia filed a separate application³ seeking PUCO authority to incur and later collect from consumers \$2.51 million in economic development costs. The \$2.51 million in costs to be collected from customers represent a portion of the costs to install 11.8 miles of a new gas main to serve a new paper manufacturing facility near Circleville. Approval of a new rider for these costs is being requested in Case Nos. 16-2067-GA-ATA and 16-2068-GA-IDR. This is the first such economic development project proposed by a natural gas utility since the passage of H.B. 319.

² *In the Matter of Columbia Gas of Ohio, Inc. for Approval to Establish an Infrastructure Development Rider*, Case No. 16-2067-GA-ATA, Application (Oct. 21, 2016); see also R.C. 4929.163.

³ *In the Matter of the Application for Approval of an Economic Development Project: Sofidel Pipeline Project*, Case No. 16-2069-GA-EDP, Application at 2 (October 24, 2106).

II. OCC'S INTERVENTION

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. In this proceeding Columbia seeks authority to incur and defer expenses for an economic development project. If the PUCO allows Columbia to incur and defer costs, its determination may be considered a “prelude” to authorizing collection of the costs from customers.⁴ So, for purposes of the statute, residential customers who will be asked to pay these costs may be adversely affected by the determinations made in this proceeding. 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 to represent Ohio residential customers to ensure that the economic development costs are just and reasonable and prudently incurred before being collected from the Utility’s customers. The PUCO’s determination that the costs are prudently incurred must be made in a subsequent proceeding where Columbia seeks to collect \$2.51 million through the economic

⁴ See *Ohio Consumers’ Counsel v. Pub. Utilities Comm’n*, 111 Ohio St.3d 384, 391(2006).

development rider. This interest is different than that of any other party and especially different than that of Columbia Gas.

Second, OCC's legal position will include advancing that any costs charged to consumers should be reasonable, prudent, and lawful. . OCC's position is directly related to the merits of this case that is pending before the PUCO. The PUCO is an authority tasked with promoting "the availability to consumers of adequate, reliable, and reasonably priced natural gas service and goods[.]"⁵

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will 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 cases 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 economic development costs could be passed on to 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

⁵ R.C. 4929.02(A)(1).

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. OCC is the state representative of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

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.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 customers, the PUCO should grant OCC’s Motion to Intervene.

III. CONCLUSION

OCC seeks intervention in this proceeding to protect the interests of Columbia’s residential customers. The OCC requests the PUCO grant intervention.

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

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Jodi Bair

Jodi Bair, (0062921) Counsel of Record
Ajay Kumar (0092208)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Bair – (614) 466-9559

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(will accept service via email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via email, this 8th day of November 2016.

/s/ Jodi Bair _____
Jodi Bair
Assistant Consumers' Counsel

SERVICE LIST

William.wright@ohioattorneygeneral.gov
sseiple@nisource.com
josephclark@nisource.com

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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Bair, Jodi Mrs.