

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
THE GERMAN VILLAGE SOCIETY, INC.,**

COMPLAINANT,

v.

CASE No. 17-1298-GA-CSS

COLUMBIA GAS OF OHIO, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on September 20, 2017

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} Columbia Gas of Ohio, Inc. (Columbia or the Company) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On May 22, 2017, the German Village Society, Inc. (GVS) filed a complaint against Columbia. In the complaint, GVS states that, in May 2017, Columbia began a project involving the repair and replacement of a portion of its natural gas distribution infrastructure in German Village, an urban, historic neighborhood located in Columbus, Ohio. GVS further states that, as part of the replacement project, Columbia plans to move, to an outside location, all natural gas meters that are currently located inside of the properties affected by the project. GVS alleges that, through Columbia's planned relocation of meters, German Village residents will be subjected to the recognized and documented safety hazards of outdoor meters, such as exposure to vehicular traffic. GVS

further alleges that Columbia should acknowledge the unique and historic character of German Village and work to contribute to the maintenance of its value and preservation. Finally, GVS claims that the movement of meters to outside locations in German Village will diminish precious outdoor space that is currently enjoyed by residents, businesses, and visitors. In its petition for relief, GVS requests that Columbia be prohibited from moving indoor meters to outside locations. Along with the complaint, GVS filed a motion to enjoin Columbia from relocating the meters.

{¶ 4} On June 12, 2017, Columbia filed its answer, along with a motion to dismiss the complaint. In its answer, Columbia states that it began the natural gas line replacement project in German Village on May 18, 2017, as part of its accelerated mains replacement program. Columbia further states that, for most of the properties affected by the project, the Company plans to move inside meters to a safe outdoor location. Columbia notes that the meter relocation will be completed in accordance with its tariff and that the Company will continue to work with affected property owners to identify unobtrusive outside meter locations that meet all safety standards and are accessible to emergency responders. According to Columbia, it is not prudent or reasonable to sacrifice safety for aesthetic concerns. In addition to addressing the individual paragraphs of the complaint, Columbia's answer sets forth several affirmative defenses. Specifically, Columbia asserts that GVS lacks standing in this matter and has failed to state reasonable grounds for complaint as required by R.C. 4905.26. Columbia also maintains that it has complied with all applicable statutes, rules, regulations, and tariffs.

{¶ 5} In its motion to dismiss, Columbia argues that GVS has failed to set forth reasonable grounds for complaint. Specifically, Columbia asserts that its meter relocation efforts comply with the rules and regulations of the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), as well as with the Company's tariffs and industry practice in Ohio. Columbia further asserts that exterior meters are not unduly dangerous and will not harm the historic character of

German Village or property values in German Village. Additionally, Columbia argues that the complaint should be dismissed because GVS lacks standing in this matter. In the alternative, Columbia contends that, if its motion to dismiss is denied, GVS' participation should be limited to representation of GVS members who are customers of the Company and who challenge their meter relocation under the project, because such customers are the real parties in interest with a direct stake in this case. Columbia requests that the Commission direct that the affected customers be joined to the complaint individually.

{¶ 6} GVS filed a memorandum contra Columbia's motion to dismiss on June 27, 2017. GVS argues that it has reasonable grounds for complaint based on data from PHMSA and recent meter relocations that violate the Company's own standards. According to GVS, federal standards, reports, and statistics, as well as industry practice, support its position that the meters are safe in their current location, while moving them outdoors would increase the safety risks and potential harm. Regarding its standing to bring the complaint, GVS asserts that it is an appropriate organization to represent the common issues of safety, historic preservation, and space considerations that are facing all residents of German Village.

{¶ 7} On July 5, 2017, Columbia filed a reply to GVS' memorandum contra the motion to dismiss. In its reply, Columbia asserts that PHMSA rules and guidance, federal reports and statistics, and industry practice support outdoor meter locations and that the statistics cited by GVS fail to establish that outside meters are hazardous. Columbia also argues that it places meters in the safest location and that its meter relocations for this project have complied with federal and state pipeline safety rules. Further, Columbia reiterates that GVS' participation should be limited to representation of directly affected Company customers and GVS members on the project who are challenging their meter location and that the Commission should direct that such individuals be joined to the complaint.

{¶ 8} A settlement conference was held on August 22, 2017. However, the parties were unable to resolve this matter.

{¶ 9} Upon review of the pleadings, the attorney examiner finds that this matter should be scheduled for hearing on November 13, 2017, at 10:00 a.m., in Hearing Room 11-C, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 10} Further, the attorney examiner finds that, for all discovery requests served after the issuance of this Entry, responses should be provided no later than ten calendar days after service of the requests. Discovery requests and replies shall be served by hand delivery, e-mail, or facsimile (unless otherwise agreed by the parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by the parties). To the extent that a party has difficulty responding to a particular discovery request, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.

{¶ 11} Any party intending to present direct expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to the commencement of the hearing.

{¶ 12} Although the attorney examiner finds that a hearing should be held in this matter, the parties are encouraged to focus their testimony at hearing on Count 1 of the complaint, which pertains to the alleged safety risks associated with the relocation of the meters. Further, with respect to the issue of whether GVS has standing to bring the complaint, the attorney examiner finds that GVS may prosecute the complaint on its own behalf in its capacity as a customer of Columbia. With respect to other affected customers, GVS states in the complaint that “several German Village residents” have authorized GVS to represent their interests in this case (Complaint at 5). However, it is not evident

from the pleadings that these residents are also members of GVS, which is a prerequisite for GVS to even seek to establish its standing to bring the complaint on their behalf. *See, e.g., Ohio Contractors Assn. v. Bicking*, 71 Ohio St.3d 318, 643 N.E.2d 1088 (1994). Therefore, if GVS seeks to prosecute its complaint on behalf of any individual or entity other than GVS itself, GVS is directed, within 14 days from the date of this Entry, to amend the complaint. Such amendment should clearly identify the individual members of GVS who have authorized GVS to prosecute the complaint on their behalf as customers of Columbia who oppose the relocation of their meters as part of the Company's current infrastructure project.

{¶ 13} Additionally, the attorney examiner directs that, during the pendency of this proceeding, Columbia shall implement an enhanced leakage inspection program for the project area. Columbia shall also install and maintain vents in proximity to the old cast iron main to mitigate any possible migrating leaking gas from the old cast iron main.

{¶ 14} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That a hearing be scheduled for November 13, 2017, at 10:00 a.m., in Hearing Room 11-C, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. It is, further,

{¶ 17} ORDERED, That, consistent with this Entry, GVS amend the complaint within 14 days of this Entry. It is, further,

{¶ 18} ORDERED, That Columbia comply with the directives set forth in Paragraph 13. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

JRJ/sc

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in

Case No(s). 17-1298-GA-CSS

Summary: Attorney Examiner Entry scheduling hearing for 11/13/2017 in accordance with Paragraph 9, directing that consistent with this Entry, that GVS amend the complaint within 14 days of the date of this Entry, and directing Columbia to comply with the directives set forth in Paragraph 13. - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio