

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of)	
Columbia Gas of Ohio, Inc., for a)	
Certificate of Environmental Compatibility)	Case No. 20-1236-GA-BTX
and Public Need for the Construction of the)	
Northern Columbus Loop – Phase VII)	

**DELAWARE COUNTY BOARD OF COMMISSIONERS’
INITIAL POST-HEARING BRIEF**

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TABLE OF CONTENTS

I. Introduction	1
II. Procedural Background.....	1
III. Law & Argument	2
A. Certificate Criteria.....	2
B. The Facility does not meet the stated basis of need.	2
C. The Facility will not serve the public interest, convenience, and necessity.	4
D. The joint stipulation is not reasonable and sufficient.	6
IV. Conclusion	7

I. Introduction

This matter is an application of Columbia Gas of Ohio, Inc. (“Columbia”), filed in November 2020, seeking a certificate of environmental compatibility and public need for the construction of Phase VII of the Northern Columbus Loop natural gas pipeline (the “Facility”). The Delaware County Board of Commissioners (the “Board”) sought, and was granted, intervention in this matter due to the Board’s profound concerns about the Facility’s impacts to natural gas supply within Delaware County, specifically the adequacy of natural gas supply for robust and orderly residential, commercial, industrial, and institutional development. While Columbia’s application states a basis of need within Delaware County and purports to meet that need and serve the public interest, convenience, and necessity, the Board respectfully asserts that, as presented and absent additional conditions, the Facility will not meet the need for natural gas supply within Delaware County and will not serve the public interest, convenience, and necessity. Accordingly, the Board respectfully asserts that the application should be denied or, in the alternative, granted only with additional conditions that will require the Facility to meet the need within Delaware County.

II. Procedural Background

Columbia filed its application on November 12, 2020. On or about January 14, 2021, Columbia served the Board with a copy of the application, the Board being entitled to service thereof under R.C. 4906.06(B). On January 25, 2021, the Board filed its notice of intervention, which was granted by administrative law judge entry on April 15, 2021. On April 28, 2021, the Board filed a list of issues for cross-examination, and on June 1, 2021, the Board filed the prepared direct testimony of Robert Lamb. Columbia and certain other parties in this matter filed a joint stipulation and recommendation on April 30, 2021, and an amended stipulation was filed

on June 11, 2021. The Board did not join the stipulation or amended stipulation. On June 17, 2021, the evidentiary hearing on the application was held, with initial post-hearing briefs ordered to be filed by July 29, 2021.

III. Law & Argument

A. Certificate Criteria

Pursuant to R.C. 4906.10, the Ohio Power Siting Board “shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, or modifications of the construction, operation, or maintenance of the major utility facility as the board considers appropriate.” The application for the Facility shall not be granted, either as proposed or as modified, unless it is found and determined that all the statutory criteria stated in R.C. 4906.10(A)(1)–(8) have been met. The Board respectfully asserts that the application, as submitted and with the conditions stated in the joint stipulation, fails to meet the criteria for granting the application, specifically the basis of need (R.C. 4906.10(A)(1)) and that the Facility will serve the public interest, convenience, and necessity (R.C. 4906.10(A)(6)). Therefore, the application should be denied or, in the alternative, granted only with additional conditions that will require the Facility to meet the stated basis of need and serve the public interest, convenience, and necessity within Delaware County.

B. The Facility does not meet the stated basis of need.

Columbia, in its application, states that the purpose for the Facility includes meeting “expected load growth and increased demand in the Greater Columbus Region. (Application, p. 6). The “Greater Columbus Region” includes Delaware County, so one of the stated purposes for the Facility is to meet anticipated load growth in Delaware County. (Hearing Transcript, p. 77, ll.

18–21. The evidence presented at the hearing supports a finding that the Facility does not meet this stated basis of need.

Columbia introduced evidence that “population growth in Central Ohio is anticipated to increase significantly in the next thirty years” including “a 28% growth in Franklin County, 35% in Delaware County, 30% in Union County, and 15% in Madison County.” (Applicant Exhibit 3, pp. 4–5) Of the areas identified as within the Facility’s intended service area, Delaware County has the highest anticipated rate of growth. (Hearing Transcript, p. 22, ll. 1–4) The current natural gas system serving the Greater Columbus Region is at capacity, including within Delaware County. (Hearing Transcript, pp. 77–78, ll. 22–25, 1–4) Despite this anticipated growth and the constraints on capacity, the weight of the evidence does not support a finding that the Facility will meet the stated need.

The Board presented the testimony of Mr. Robert Lamb, who is the former Economic Development Director for Delaware County. Mr. Lamb testified that sufficient supply of natural gas is a key component of continued growth and development. (Delaware County Exhibit 1, p. 2, ll. 11–15) Mr. Lamb specifically identified two targeted development areas within Delaware County, the US 23 Corridor and Berlin Business Park, that will require natural gas service and that could be served through the Facility. (Delaware County Exhibit 1, p. 2, ll. 22– 32) Absent a condition with supply commitments to actually serve Delaware County, however, Mr. Lamb questions whether the Facility meets the need within Delaware County. (Delaware County Exhibit 1, p. 3, ll. 13–15) This is an important distinction that should be considered in evaluating the stated basis of need for the Facility. While one staff witness offered testimony that the Facility could meet increased natural gas demand in Delaware County (Hearing Transcript, p. 79) and admitted that there are developments that will require adequate natural gas supply within

Delaware County (Hearing Transcript, p. 81), the evidence submitted in this matter on behalf of Columbia and Staff does not specifically identify developments within Delaware County or how they will be served through the Facility. (*See* Hearing Transcript, pp. 81–86) On the contrary, evidence submitted in this matter on behalf of Columbia and Staff specifically identifies developments within Union County, indicating that the real purpose of the Facility is to meet anticipated load growth in Union County, even to the detriment of Delaware County.

Without identifying how the Facility will meet the anticipated load growth in Delaware County through increased natural gas supply, one cannot find and determine that the Facility will meet the stated basis of need. Therefore, the application should be denied. In the alternative, the certificate should apply a condition that includes supply commitments within Delaware County sufficient to meet the anticipated load growth within Delaware County.

C. The Facility will not serve the public interest, convenience, and necessity.

Construction of a natural gas facility to address supply constraints has the potential to serve the public interest, convenience, and necessity, but the Facility does not realize that potential because it bypasses customers within Delaware County that are also underserved. At the same time, the Facility has the real potential to inflict harm within Delaware County, which is the antithesis of serving the public interest, convenience, and necessity.

One way in which the Facility could serve the public interest, convenience, and necessity is by actually achieving the stated purpose to meet the needs of natural gas customers within Delaware County. Mr. Lamb testified that, in order for the Facility to serve the public interest, convenience, and necessity, “there must be commitments to actually provide natural gas service from the Northern Columbus Loop facility, including access to other natural gas distribution companies operating within Delaware County, such as Suburban Natural Gas.” (Delaware

County Exhibit 1, p. 2, ll. 40–44) This could be achieved through a certificate condition that requires Columbia to commit a minimum amount of natural gas supply from the Facility at one or more points of delivery within Delaware County. Even with a condition in regard to natural supply commitments, however, the Facility has the potential to inflict harm within Delaware County.

First, the Board has significant concerns that Columbia has not adequately explored and addressed the impact of Karst features in the vicinity of the preferred and alternate routes for the Facility. (Hearing Transcript, p. 57, ll. 5–10) Staff recommended a condition, specifically condition #4, which would require Columbia to account for Karst topography. The joint stipulation proposes to modify condition #4 by limiting the scope of that condition to “known” Karst topography. (Hearing Transcript, p. 56, ll. 9–18) This change is significant because Karst topography has the potential to present a hazard for the location of a high-pressure natural gas line. (Hearing Transcript, p. 57, ll. 11–14) At certain points along the Facility’s route, it is located adjacent to occupied structures, making any potential hazard due to Karst topography vitally important to ensuring public safety.

Second, the Board has significant concerns that the Facility will have a detrimental impact on economic development and local tax revenue within Delaware County, specifically within Concord Township. Columbia did not fully explore the impact the preferred route has on an area zoned as a general business district within Concord Township, as indicated in testimony on behalf of Columbia and Staff. (Hearing Transcript, pp. 25 and 95–99) This is especially concerning given Columbia’s use of “perpetual temporary easements” along the pertinent portions of the preferred route. Such easements exponentially increase the area that will be rendered undevelopable due to the need to reserve access to the Facility. Columbia also did not

fully explore the impact the preferred route will have on local tax revenues. (Hearing Transcript, p. 27) While the Staff report indicated a favorable tax revenue outcome for the Facility as a whole, this analysis was not conducted on an individual jurisdictional basis. (Hearing Transcript, p. 100)

By failing to fully explore the impacts the Facility will have within Delaware County, one cannot find and determine that the Facility will serve the public interest, convenience, and necessity. Therefore, the application should be denied. In the alternative, the certificate should include conditions that include the following: supply commitments within Delaware County sufficient to meet the anticipated load growth within Delaware County; additional surveys and exploration to identify Karst topography; limits on the use of perpetual temporary easements within general business districts; and alternative routing to avoid general business districts.

D. The joint stipulation is not reasonable and sufficient.

The joint stipulation filed by Columbia and other parties in this matter is not reasonable and sufficient, and the joint stipulation is detrimental to ratepayers within Delaware County. As a threshold matter, the Board argues that the joint stipulation was not the result of serious bargaining, due to the fact that the Board's concerns about, and potential remedies to, supply constraints within Delaware County and access to the Facility were not adequately discussed amongst the parties. (Delaware County Exhibit 1, p. 3, ll. 7–9) The joint stipulation fails to include conditions reasonably necessary to meet the needs for natural gas supply within Delaware County and to ensure that the Facility serves the public interest, convenience, and necessity, as argued in the preceding section. Therefore, the joint stipulation requires material modification in order to be reasonable and sufficient and should be rejected.

IV. Conclusion

For the foregoing reasons, Columbia's application should be denied. In the alternative, the certificate should include conditions as proposed herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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Summary: Brief Delaware County Board of Commissioners' Initial Post-Hearing Brief electronically filed by Mr. Aric I Hochstettler on behalf of Delaware County Board of Commissioners