**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of North Coast Gas Transmission, LLC for Authority to Become a Natural Gas Company in Ohio, Replace its Existing P.U.C.O. Tariff No. 2, and Move the PUCO Rolls as a Regulated Natural Gas Company. | )  )  )  )  )  )  ) | Case No. 21-1029-GA-ATA |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene[[1]](#footnote-2) where North Coast Gas Transmission, LLC (“North Coast”), a natural gas pipeline company, wants to convert its current regulatory status as a natural gas pipeline company to a natural gas company[[2]](#footnote-3) and begin serving residential consumers. North Coast proposes to negotiate special contract rates charged on an individual basis with each prospective residential consumer.[[3]](#footnote-4)

OCC is intervening on behalf of residential utility customers who may be affected by North Coast’s application to begin serving residential customers. The reasons the Public

Utilities Commission of Ohio (“PUCO”) should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Amy Botschner O’Brien*

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## MEMORANDUM IN SUPPORT

North Coast’s application requests approval for a natural gas pipeline company to convert to a natural gas company and begin serving consumers under negotiated rates. North Coast has been transporting natural gas to northern Ohio since 2004.[[4]](#footnote-5) But North Coast now “sees a continuing need for natural gas supplies and unique market opportunities that it would like to fulfill,”[[5]](#footnote-6) so it wants authority to become an intrastate natural gas company.

North Coast’s draft tariff filed along with its Application seeks to serve residential consumers as a natural gas company. North Coast has not proposed a Gas Cost Recovery (“GCR”) section in its tariff and asks the PUCO to exempt it from this safeguard.[[6]](#footnote-7) Instead, North Coast proposes to negotiate special contract rates charged on an individual basis with each prospective customer.[[7]](#footnote-8) Under North Coast’s proposal, residential consumers will neither have the protection of a GCR or the consumer protections provided by the competitive retail natural gas service rules[[8]](#footnote-9) for competitive supply service.

OCC’s intervention should be granted. OCC has authority under law to represent the interests of residential utility customers in Ohio, under 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 consumers were unrepresented in a proceeding involving a company proposing to negotiate individual natural gas service contracts with residential consumers. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO 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 proceedings; and

(4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC’s interest is representing residential consumers of North Coast Gas where residential consumers may be ill-equipped to effectively protect themselves in contracts for commodity supply service due to the large information differential between consumers and North Coast. This interest is different from that that of any other party and especially different from 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 consumers should pay just and reasonable rates for utility service. 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 consumers, OCC has a very real and substantial interest in this case where a natural gas pipeline company proposes to convert to a new natural gas utility that provides gas service to Ohio residential consumers.

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 PUCO 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.[[9]](#footnote-10)

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.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Amy Botschner O’Brien*

Amy Botschner O’Brien (0074423)

Counsel of Record

William Michael (0070921)

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(willing to accept service by e-mail)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 29th day of October 2021.

*/s/ Amy Botschner O’Brien*

Amy Botschner O’Brien

Assistant Consumers’ Counsel

**SERVICE LIST**

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1. *See* R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. [↑](#footnote-ref-2)
2. As defined in O.R.C. 4905.03(E). [↑](#footnote-ref-3)
3. North Coast Application at 5 (Oct. 4, 2021). [↑](#footnote-ref-4)
4. North Coast Application at 1 (Oct. 4, 2021). [↑](#footnote-ref-5)
5. *Id*. [↑](#footnote-ref-6)
6. *Id*. at 5. [↑](#footnote-ref-7)
7. *Id*. [↑](#footnote-ref-8)
8. *See* O.A.C. 4901:1-29. [↑](#footnote-ref-9)
9. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20. [↑](#footnote-ref-10)