**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation.  | ))) | Case No. 23-46-GA-ALT |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case[[1]](#footnote-2) where Columbia Gas of Ohio, Inc. (“Columbia”) seeks to implement a Pipeline and Hazardous Material Safety Administration (“PHMSA”) Infrastructure Replacement Program (“PHMSA IRP”) Rider for its gas distribution service. The proposed PHMSA IRP Rider could increase rates for the Small General Service (“SGS”) class of consumers, including residential consumers, by up to $0.27 per month for 2023 assets, by up to $1.06 per month for 2024 assets, by up to $1.76 per month for 2025 assets, by up to $2.76 per month for 2026 assets, and by up to $3.72 per month for 2027 assets[[2]](#footnote-3). In total, Columbia estimates that it will spend $619.4 million on the PHMSA IRP over the next five years.[[3]](#footnote-4) Columbia is proposing a PHMSA IRP Rider notwithstanding the fact that it already has an existing Capital Expenditure Program Rider and an existing Infrastructure Replacement Program Rider.

OCC is filing on behalf of the approximately 1.4 million residential utility customers of Columbia. 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/ John Finnigan*

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## MEMORANDUM IN SUPPORT

Columbia Gas of Ohio, Inc. (“Columbia” or “Utility”) seeks to implement a new infrastructure replacement program and rider to recover an estimated $619.4 million in capital expenditures and operation and maintenance expenses (“O&M”) over the next five years[[4]](#footnote-5) that Columbia claims is necessary to comply with the Pipeline and Hazardous Material Safety Administration’s (“PHMSA”) Mega Rule (“PHMSA IRP”).[[5]](#footnote-6) The proposed rider would result in significant increases in charges for residential consumers by up to $3.72 per month for program capital expenditures and O&M expenses incurred through 2027.[[6]](#footnote-7)

OCC has authority under law to represent the interests of the approximately 1.4 million residential utility customers of Columbia, pursuant to 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 customers were unrepresented in a proceeding where the Utility seeks to implement a new infrastructure replacement program and rider that could significantly increase charges to those customers. 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 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 involving the proposed implementation of a new infrastructure replacement program and rider. 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 stockholders.

Second, OCC’s advocacy for residential customers may include advancing the position that Columbia should not make any PHMSA IRP investments that are not truly mandated for Mega Rule compliance and that such investments are not excessive and are prudent. 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 O.A.C 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where Columbia seeks to implement a new infrastructure replacement program and rider that could significantly increase charges to those customers.

In addition, OCC meets the criteria of O.A.C 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.

O.A.C 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.[[7]](#footnote-8)

OCC meets the criteria set forth in R.C. 4903.221, O.A.C 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/ John Finnigan*

John Finnigan (0018689)

Counsel of Record

Angela D. O’Brien (0097579)

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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 2nd day of June 2023.

 */s/ John Finnigan*

 John Finnigan

 Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

**SERVICE LIST**

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1. *See* R.C. 4911, R.C. 4903.221 and O.A.C 4901-1-11. [↑](#footnote-ref-2)
2. *See* Columbia Application (February 28, 2023) at Exhibit A, page 9. [↑](#footnote-ref-3)
3. *Id.* at Exhibit D, page 2. [↑](#footnote-ref-4)
4. Columbia Application (February 28, 2023) (“Application”) at Exhibit D, page 2. [↑](#footnote-ref-5)
5. Pipeline Safety: Safety of Gas Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments, 84 Fed. Reg. 52,180 (October 1, 2019) (“Mega Rule”). [↑](#footnote-ref-6)
6. Application at Exhibit A, page 9. [↑](#footnote-ref-7)
7. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20. [↑](#footnote-ref-8)