**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Columbia Gas of Ohio, Inc. for a Waiver of Certain Rules in Chapters 4901:1-13 of the Ohio Administrative Code. | )  )  )  ) | Case No. 15-0179-GA-WVR |

**MOTION TO INTERVENE**

**AND**

**INITIAL COMMENTS**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case[[1]](#footnote-1) where the Columbia Gas of Ohio, Inc. (“Columbia” or “Utility”) proposes to delay implementation of two provisions of the Public Utilities Commission of Ohio’s (“PUCO”) rules regarding the Minimum Gas Service Standards (“MGSS”). [[2]](#footnote-2) Columbia does not want to comply with the PUCO’s rules that were recently revised to protect customers receiving gas service. If the PUCO permits Columbia to waive compliance with the MGSS, customers will likely be harmed by not receiving the consumer protection benefits included in the revised rules.

After reviewing extensive comments and reply comments, the PUCO revised the rules for minimum gas service standards. It considered the arguments made by the Utility and others in promulgating the revisions to the rules. Not all of Columbia’s arguments were not adopted. Instead, the PUCO insisted upon additional customer protections. Columbia now attempts to avoid complying with the new customer protections. OCC files on behalf of Columbia’s approximately 1.4 million residential natural gas customers in Ohio who are provided protections through the PUCO’s revised MGSS. The reasons the PUCO should grant OCC’s Motion are further set forth in the attached Memorandum in Support, which includes initial comments on Columbia’s Application.

Respectfully submitted,

BRUCE J. WESTON

OHIO CONSUMERS’ COUNSEL

*/s/ Jodi Bair*

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**MEMORANDUM IN SUPPORT**

**AND**

**INITIAL COMMENTS**

1. **INTERVENTION**

The PUCO adopted revised rules addressing Ohio gas companies’ Minimum Gas Service Standards (“MGSS”) on November 12, 2014. The original MGSS became effective in 2006. In this pleading, Columbia Gas of Ohio, Inc. (“Columbia” or “Utility”), a natural gas utility company, asks the PUCO for a waiver of two provisions of the new rules.[[3]](#footnote-3) Columbia actively participated in the MGSS PUCO proceedings, raising issues about the rule it now seeks to waive.[[4]](#footnote-4) Though the PUCO made its decision and issued final orders in these cases, Columbia again attacks the PUCO orders through this waiver case. These rules affect Columbia’s approximately 1.4 million residential customers located throughout sixty one counties in Ohio. OCC under R.C. Chapter 4911 represents the interests of residential natural gas utility customers in Ohio who will be affected by Columbia’s failure to timely comply with the rules that protect customers.

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 consumer protections for the customers are at issue. 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 residential customers in this case where Columbia seeks a waiver of rules related to consumer protections. Specifically, Columbia wants a waiver from several of the minimum gas service standards and Credit and Disconnect rules relating to the provision of gas service to its customers. This interest is different from that of any other party and especially different from that of Columbia, whose advocacy includes the financial interest of its stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that consumer protection laws and regulations are essential to ensuring that consumers are adequately protected in transactions involving the provision of gas 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 the provision of natural gas in Ohio.[[5]](#footnote-5)

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 customers, OCC has a very real and substantial interest in this case where a supplier of natural gas service seeks a waiver from necessary consumer protections.

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 “[t]he 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.[[6]](#footnote-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.

# II. INITIAL COMMENTS

Columbia and the OCC, among others, actively participated in the PUCO case that amended the rules that Columbia now requests to waive. The PUCO opened the MGSS case on November 15, 2013. Orders were issued on July 30, 2014 and November 11, 2014. Columbia filed comments, reply comments and an application for rehearing in the MGSS case. Columbia now seeks to delay complying with the rules that protect consumers. Columbia asks to waive 4901:1-13-05(A)(1) and (A)(4).

The PUCO may waive a rule for good cause shown; however, Columbia, by arguing against the same rules that it challenged in the MGSS case, fails to demonstrate good cause shown to waive any rules.[[7]](#footnote-7) Just as Columbia already made its arguments in earlier cases, the OCC will reiterate the reasons that the PUCO rejected these arguments. And, following the precedent already established by the PUCO in these cases, OCC asks the PUCO to reject Columbia’s waiver application to ensure that Columbia’s approximately 1.4 million residential customers get the consumer benefits that the PUCO intended.

## A. Ohio Admin. Code 4901:1-13-05(A)(1) and (A)(4) Minimum Customer Service Levels

The revisions to rules 4901:1-13-05(A)(1) and (4) reduce the number of days in which Columbia must establish new service from five to three business days. This rule benefits applicants for new service by ensuring natural gas service is initiated sooner than the old rules. But the new rules also benefit Columbia because the Utility will have an opportunity to collect revenues two days sooner than under the previous rules.

Columbia requests a waiver of two provisions, stating that it needs a temporary waiver until November 30, 2016 because “[t]he change to 3 business days from the previously mandated 5 will require Columbia to make significant changes to its operations and Columbia will need until November 2016 to evaluate and complete the changes.”[[8]](#footnote-8) This complete lack of flexibility to adapt policies and procedures to the needs of customers is a concern to the OCC. In this Application, Columbia also states that the Utility will have to hire additional employees at a cost of $270,000 and implement IT changes at a cost of approximately $570,000 for the first year. Columbia made these flawed arguments in the MGSS case:

Unless the Companies substantially increase their staffing, fleet, and other resources, they do not expect they will be able to comply with the accelerated deadlines during peak times. Increased costs will also be incurred for substantial reprogramming, as the Companies have already programmed and automated where scheduling systems to ensure compliance with the current five-day period[[9]](#footnote-9)

Columbia made arguments against these revisions to the PUCO in its MGSS Comments,[[10]](#footnote-10) and Application for Rehearing.[[11]](#footnote-11) The PUCO already appropriately found that Columbia’s arguments “regarding the three-day timeframe for new service installations and rescheduled completion dates under Ohio Adm. Code 4901:1-13-05(A)(1) and (4) should be denied.”[[12]](#footnote-12) The PUCO agreed with the OCC that the estimated cost impact associated with the rule changes did not constitute a major increase that would outweigh the benefit to customers of having service installed within a reasonable amount of time.[[13]](#footnote-13) The PUCO also noted that the electric utility companies in Ohio have already established a standard for initiating service within three days[[14]](#footnote-14) and there is no reason for the natural gas industry to not follow suit. Though Columbia may argue that it needs more time to implement this shortened timeframe, the PUCO stated in the most recent MGSS Second Entry on Rehearing issued in 2014 that the PUCO had encouraged, in its 2010 MGSS order, gas companies to take every reasonable action to connect new service as quickly as possible, particularly during the winter months.[[15]](#footnote-15)

The PUCO should deny Columbia’s waiver request here as it did in the MGSS Case because no new compelling evidence has been set forth. Columbia provided no support for the need to hire additional employees or the $270,000 in alleged costs. Columbia provided no support for the $570,000 in alleged IT costs. Columbia made only unsubstantiated claims that the programming changes in the strategic work plan cannot be completed now. Once again, while the PUCO has already rejected the Utility’s flawed argument, which if adopted, could potentially harm customers, Columbia now seeks to delay the implementation of the rules. Columbia has provided no new evidence, nor good cause for its request, to support a delay in the implementation of this rule.

OCC asks the PUCO to deny Columbia’s unwarranted waiver request.

# II. Conclusion

OCC opposes Columbia’s waiver requests of Ohio Adm. Code 4901:1-13-05(A)(1) and (A)(4). The PUCO enacted the MGSS in 2006. Since that time, the PUCO has revised the rules in order to improve the provision of gas service for consumers. Over the years and in this proceeding, the PUCO considered comments from the gas industry, gas marketers, and a wide variety of customers. With this in mind, the PUCO intended that Columbia’s 1.4 million customers would benefit from the improved consumer protections in the newly enacted rule revisions. The PUCO made its decisions in earlier orders and entries; however, Columbia tries again to circumvent compliance with the PUCO’s rules through this waiver request. Customers are entitled to the benefits of the revised rules. Because Columbia fails to show good cause to waive the rules, as required by Ohio’s Administrative Code, the PUCO should reject Columbia’s requests for waiver. OCC recommends that the PUCO deny Columbia’s requests.

Respectfully submitted,

BRUCE J. WESTON

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*/s/ Jodi Bair*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene and Comments was served on the person stated below via electronic transmission, this 13th day of February 2015.

*/s/ Jodi Bair*

Jodi Bair

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-1)
2. *In the Matter of the Commission’s Review of Chapter 4901:1-13 of the Ohio Administrative Code, Regarding Minimum Gas Service Standards*(“MGSS”), Case No. 13-2225-GA-ORD. [↑](#footnote-ref-2)
3. *In the Matter of the Application of Columbia Gas of Ohio, Inc. for a Waiver of Certain Rues in Chapter 4901-1-13 of the Ohio Administrative Code*, Case No. 15-0179-GA-WVR. [↑](#footnote-ref-3)
4. MGSS, Case No. 13-2225-GA-ORD, East Ohio Gas Co., Vectren Energy Delivery of Ohio, Inc., and Columbia Gas of Ohio, Inc. Joint Comments (March 28, 2014) and Joint App. for Rehearing (Aug. 29, 2014). [↑](#footnote-ref-4)
5. R.C. 4928.10 and R.C. 4929.22. [↑](#footnote-ref-5)
6. See *Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20. [↑](#footnote-ref-6)
7. Ohio Adm. Code 4901-13-02(C) (“The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.”). [↑](#footnote-ref-7)
8. Columbia App. (Jan. 26, 2015). [↑](#footnote-ref-8)
9. MGSS, Joint Comments of The East Ohio Gas Co, Vectren Delivery of Ohio, Inc. and Columbia Gas of Ohio, Inc. at 8 (March 28, 2014). [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. *MGSS,* Joint Application for Rehearing (Aug. 29, 2014). [↑](#footnote-ref-11)
12. *Id*., Second Entry on Rehearing at 3 (Nov. 12, 2014). [↑](#footnote-ref-12)
13. *Id*. [↑](#footnote-ref-13)
14. *Id*. at 4. [↑](#footnote-ref-14)
15. Second Entry on Rehearing at 3 (Nov. 12, 2014). [↑](#footnote-ref-15)