

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Approval) Case No. 11-5515-GA-ALT
of an Alternative Form of Regulation.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Columbia Gas of Ohio, Inc. ("Columbia" or "the Company") is asking to establish an alternative regulation ("alt. reg.") rate for residential customers.¹ OCC is filing on behalf of all of Columbia's approximately 1.2 million residential utility customers. The reasons the Public Utilities Commission of Ohio ("Commission" or "PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

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In its Notice of Intent to File an Application (“PFN”), Columbia asked the PUCO to approve the following two alternative regulation (“alt. reg.”) rate recovery mechanisms: 1) extend the infrastructure replacement program (“IRP”) for another 5 years (2014 through 2018)² and 2) establish an economic development (“ED”) program³ as alt. reg. plans pursuant to R.C. Chapter 4929. OCC has authority under the law to represent the interests of all of Columbia’s approximately 1.2 million residential utility customers, 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 to establish an alt. reg. rate for residential customers. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

² PFN at Attachment 5. (Rider IRP provides Columbia with the ability to continue to track and recover, on an annual basis, the costs of an infrastructure replacement program.)

³ Id. (The ED recovery mechanism will provide Columbia with the ability to recover the costs of implementing an economic development program.)

- (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 extension and establishment of alt. reg. rate plans that may impact the affordability of residential customers' energy bills, especially during the winter heating season. Therefore, unjust and unreasonable increases to COH's IRP Rider rate⁴ and ED Rider rates would adversely affect these customers' interests. 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 will include advancing the position that any alt. reg. rate for residential customers cannot be more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. 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.

⁴PFN at Attachment 5 (Columbia has proposed IRP Rider Rate Caps that increase by \$1.00 per customer per month beginning in 2014 at \$6.20 and increasing to \$10.20 by 2018.)

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 the PUCO is considering an alt. reg. rate for residential customers.

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 Commission 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.⁵

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 Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

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⁵ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below *via* electronic mail this 4th day of January 2012.

/s/ Larry S. Sauer

Larry S. Sauer

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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Sauer, Larry S.