

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Recovery) Case No. 13-778-GA-UNC
of Base Chip Transition Costs.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where customers may be required to pay approximately \$8.2 million in base chip transition costs.¹² The base chip transition costs are costs that have been previously deemed to be recoverable from customers at some point in the future.³ OCC is filing on behalf of all the approximately 1.2 million residential utility customers of Columbia Gas of Ohio, Inc. ("Columbia" or "Utility"). 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.

³ *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of Columbia Gas of Ohio, Inc. and Related Matters*, Case No. 80-212-GA-GCR, Opinion and Order at 9 (April 14, 1981) (“1980 GCR Case”).

Respectfully submitted,

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⁵ Id. at 9.

Finally, the Commission recognizes that should the GCR mechanism continue until such time when the Company goes out of business, some provision will have to be made to account for recovery of the base chip if the Company is to be made whole for its incurred gas costs.⁶ **However, the appropriate time to address the question of the collection of the base chip is when that event occurs.**⁷

However, when the PUCO issued this Order there was no Standard choice Offer (“SCO”) and the Utility did not obtain natural gas for customers through the use of the auction process.

Today, with regard to the method the PUCO will use to set the price of gas in the event that there is any problem with the SCO, the PUCO has consistently stated it can return the utility and customers to the Gas Cost Recovery mechanism for ratemaking:

During that time [the annual SCO period], the Commission reserves the right to terminate the SCO and DSS mechanisms and to implement an alternative pricing methodology at any time, if circumstances warrant.⁸

The PUCO has not permitted Columbia or any Ohio gas utility to exit the merchant function. Moreover, the PUCO has not rejected the GCR as an alternative pricing methodology that might be used in the future.

Inasmuch as Columbia is still in business and the PUCO has retained the right to reinstate the GCR, the events contemplated by the PUCO in the 1980 GCR Case have not yet occurred. Thus, the Utility application seems premature at this time.

⁶ Id. (Emphasis added).

⁷ 1980 GCR Case, Opinion and Order at 5 (April 14, 1981).

⁸ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 08-1344-GA-EXM, Finding and Order at 3 (February 27, 2013); *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 07-1285-GA-EXM, Finding and Order at 3 (January 16, 2013); *In the Matter of the Application of the East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 07-1224-GA-EXM, Finding and Order at 3 (February 20, 2013).

R.C. 4903.221(B) requires the Commission 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 Utility's premature attempt to collect approximately \$8.2 million in base chip transition costs. 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 a position on behalf of residential customers regarding Columbia's proposal for them to now pay \$8.2 million in base chip transition costs before the PUCO's conditions for consideration of collection of those costs are met. The PUCO's conditions to be met for charging customers are that there is an end to the GCR mechanism or Columbia goes out of business. It would thus seem premature (and not reasonable) to include the base chip transition costs in rates that residential customers pay for gas costs. 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 customers, OCC has a very real and substantial interest in this case where residential customers may be required to prematurely pay \$8.2 million in base chip transition costs.

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.⁹

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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⁹ 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 service this 8th day of May 2013.

/s/ Joseph P. Serio

Joseph P. Serio

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/8/2013 2:41:53 PM

in

Case No(s). 13-0778-GA-UNC

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.