

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

The German Village Society. Inc.,	)	
588 S. Third Street, Columbus, Ohio	)	
43206	)	
	)	
Complainant,	)	Case No. 17-1298-GA-CSS
	)	
v.	)	
	)	
Columbia Gas of Ohio, Inc.	)	
290 W. Nationwide Blvd.	)	
Columbus, Ohio 43215	)	
	)	
Respondent.	)	

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**COMPLAINT BY THE GERMAN VILLAGE SOCIETY  
AGAINST COLUMBIA GAS OF OHIO  
REGARDING PENDING NATURAL GAS METER RELOCATIONS,  
MOTION TO ENJOIN THE RESPONDENT FROM RELOCATING ANY  
ADDITIONAL METERS OUTSIDE,  
AND A REQUEST FOR EXPEDITED RULING**

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The German Village Society, Inc.<sup>1</sup> (“German Village Society” or “GVS”) by and through counsel, hereby requests the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to provide specific relief in order to prevent certain, additional natural gas infrastructure relocation by the respondent. In addition, the GVS now moves the Commission to immediately enjoin any further activity by respondent that would spread unnecessary safety risks throughout German Village and cause substantial and irreparable harm to its residents, businesses and visitors. Finally, the GVS

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<sup>1</sup> The German Village Society in addition to the general organization and its members, has the express permission to represent the individuals listed in Attachment A.

respectfully requests expedited treatment for the consideration and ruling by the Commission on this Motion. This complaint is being filed in accordance with Ohio Revised Code 4905.26 and the complaint procedures as presented in Ohio Administrative Code 4901-9-01. The motion to enjoin and request for an expedited ruling are filed in accordance with Ohio Administrative Code 4901-1-12.

First and foremost, the proposed natural gas infrastructure relocation would potentially compromise the safety of German Village residents and visitors. Therefore, the German Village Society respectfully requests that the Commission immediately enjoin respondent from relocating any additional meters outside during the pendency of this proceeding. The Federal Department of Transportation provided the GVS with evidence that outdoor configurations are prone to damage that may cause fatalities and significant property damage. The GVS believes the documented risks and hazards of outdoor relocation will be exacerbated by the densely populated urban setting.

The relocation will also permanently interrupt, distort and diminish the aesthetic, historic appeal of the Village, and unnecessarily reduce precious outside space. Further elaboration on the Complaint, the Motion and the Request for Expedited Ruling are contained in the complaint and memorandum in support below.

Respectfully submitted,

/s/Christopher J. Allwein

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**Attorney for the German Village Society, Inc.**

## **INTRODUCTION**

Respondent has recently commenced significant repair and replacement of natural gas distribution infrastructure serving German Village, a historic, urban neighborhood located just South of Downtown Columbus. The German Village Society and individual residents represented by the German Village Society as a part of this proceeding do not oppose most of the infrastructure replacement to be completed by respondent.

The GVS objects to the part of respondent's plan to move all natural gas meters currently located indoors to an outside location. Respondent claims that this will reduce interruption of service due to access issues and provide "first responders" with the means to shut off the gas. There are likely other, larger motivations blinding the utility to the unnecessary risks they seek to impose on the people of German Village. The proposed relocation of meters to the outside has the potential to create hazards to residents, businesses and tourism in German Village via the exposure of meters to weather extremes, automobile traffic and potential vandalism. *None of these risks currently exist* for meters located inside of the Village's historic structures. Columbia seeks to impose these documented safety hazards on every structure, denizen and business throughout historic German Village. Thus, the GVS now urges the Commission to immediately halt this portion of Columbia's project and: Review the evidence that exists regarding outside meter hazards; Conclude that the respondent's ill-advised, "one size fits all" approach that ignores real safety concerns will not work for this particular area, and; Order the respondent to implement a revised natural gas distribution configuration for this area that allows safe operation of the distribution system and requires the meters to remain safely indoors in their current locations; insulated from unnecessary exposure, risk and hazard.

Another important consideration and reason to order the implementation of a safe, alternative configuration is that the outside relocation will disrupt and disfigure the current, aesthetic and historic

appeal (and decades-long preservation efforts) of German Village, which is, *inter alia*, listed on the National Register of Historic Places.

Finally, the current, proposed configuration will significantly diminish the important, limited outdoor and sidewalk space. This is an unnecessary consequence that, along with the other consequences introduced above, will produce irreparable harm to the GVS, the Village and the Villagers, and undermine more than five decades of consistent, dedicated effort to restore and maintain the Village's nationally recognized, unique and historic charm. Therefore, the German Village Society and its members now respectfully request swift action, investigation and resolution by this Commission.

### **Complaint**

#### **I. THE GERMAN VILLAGE SOCIETY**

1. Complainant, the German Village Society, is a non-profit civic association with their principle place of business located at 588 S. Third Street, Columbus, Ohio, 43206.
2. The German Village Society is a 501c3 educational and advocacy organization.
3. The mission of the German Village Society is that its "Members serve as Caretakers of a Legacy, dedicated to retaining the character and distinction of the past while creating a thriving and contemporary community in German Village."
4. The German Village Society began in 1960 with the purpose of saving German Village from decline.
5. The German Village Society has been in operation for more than 56 years.
6. The German Village Society works to strengthen, enhance and promote German Village.

7. The German Village Society administers preservation education and outreach programs, maintains the Meeting Haus headquarters, and sponsors specific events within German Village.
8. German Village is well-known and nationally recognized for its historic preservation practices and procedures; Society Advocates are frequently asked to provide presentations about German Village and its 50-year transformation, “best practices” regarding rehabilitation of historic structures, and other aspects regarding historic preservation.
9. The German Village Society currently has 994 members.
10. In addition, several German Village residents (“Residents”) have provided express permission for the German Village Society to represent their interests in this Complaint proceeding (see Attachment A).
11. The German Village Society, its members and the Residents are customers of respondent.
12. German Village, the Columbus, Ohio neighborhood that is the pride and focus of the German Village Society, was platted in 1814.
13. The boundaries of German Village are Livingston Avenue to the North, Pearl Street to the West, Nursery Lane to the South. The East boundary is jagged, and extends one block East of Jaeger Street from Nursery Lane up to Whittier. Between Whittier and Kossuth it is Jaeger, then it is Grant up to Brust, then the Eastern Boundary is Lathrop the rest of the way to Livingston, although its beneficial aspects and influence extend well beyond these geographic boundaries.
14. German Village is comprised of 1874 tax parcels.
15. German Village contains approximately 1600 structures within 233 acres within the City of Columbus, Ohio.
16. German Village is listed on the National Register of Historic Places as of December, 1974.

17. In 2007, German Village was designated as a “Preserve America Community” by the White House.
18. In 2011, the American Planning Association designated German Village as a “Top 10 Great Neighborhood” in the United States.
19. German Village is also designated locally as an historic area. The German Village Historic District was established by Ordinance # 976-60 and 1221-60 in 1960.
20. German Village residents, businesses and investors have spent millions of dollars over several years restoring, maintaining and improving the infrastructure and structures within German Village.
21. The median selling price of a home in German Village in 2014 was \$319,250.00, up 9.4% from the previous year. This is 2.37 times greater than the median selling price in Columbus as a whole.
22. German Village is consistently touted by the City of Columbus and the State of Ohio as a tourist destination, bringing significant, additional revenue to the City of Columbus (See Attachment B and Attachment C, respectively).

## **II. THE UTILITY AND JURISDICTION**

23. Complainant incorporates the allegations contained in paragraphs 1 to 22 above.
24. Respondent, Columbia Gas of Ohio, Inc., is a public utility under R.C. 4905.02.
25. Respondent is a natural gas company under R.C. 4905.03(E).
26. The Commission has personal jurisdiction over the respondent and subject matter jurisdiction over this complaint pursuant to R.C. 4905.05 and R.C. 4905.26

**III. COUNT 1 – SAFETY: COLUMBIA GAS’ CURRENT AND PLANNED ACTIVITIES WILL EXPOSE GERMAN VILLAGE RESIDENTS TO RECOGNIZED AND DOCUMENTED HAZARDS**

27. Complainant incorporates the allegations contained in paragraphs 22 to 26 above.
28. Respondent is replacing and updating natural gas distribution infrastructure as a part of its IRP process, most recently approved in PUCO Case No. 11-5515-GA-ALT.
29. In that proceeding, Columbia noted that it would continue to repair and replace customer service lines, priority pipe and associated infrastructure.
30. Also in that proceeding, Columbia noted that it would continue to “replace inside meters with outside meters *as necessary* to mitigate the safety risks associated with higher operating pressures. Columbia will continue to capitalize and recover costs associated with this activity through the AMRP.”<sup>2</sup>
31. The German Village Society and Several German Village Residents object to relocation of meters outside of German Village residences, due to legitimate safety concerns.
32. The German Village Society have gathered compelling and consistent evidence that outdoor meters pose significant safety risks through exposure to several hazards in outdoor locations.
33. In a 2005 report prepared for the Office of Pipeline Safety, U.S. Department of Transportation, Allegro Consulting discussed outdoor meter configurations. (Attachment D)
34. Allegro stated that: “Meter Set Assemblies, too, are typically on a customer’s property and in proximity to a building. Meter Set Assemblies are also sometimes exposed to **vehicular traffic**.”

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<sup>2</sup> PUCO Case No. 11-5515-GA-ALT, Amended notice to file Application for Approval of an Alternative Rate Plan, Summary (page 63 of 69) at 4 (March 5, 2012).

**Many are located in alleyways, driveways, near parking lots, or along a thoroughfare.”**

(Emphasis Added).<sup>3</sup>

35. The above exposures are **exactly** the dangerous circumstances that Columbia inexplicably insists on circulating throughout the German Village area.
36. In addition, Allegro stated (still referring to outdoor meter sets) that “Meter Set Assemblies, in contrast, are susceptible to damage by Other Outside Forces [...] 43% of the incidents were Vehicle-related, and 30% were a result of Fire First.”<sup>4</sup>
37. The Allegro Report noted that “Vehicle-related incidents are significantly overrepresented in Fatalities. While vehicles represent 11% of all reported incidents [between 1999-2003], vehicles were involved in 25% of the incidents that resulted in a fatality [15 of 60 incidents].”<sup>5</sup>
38. Allegro concluded that “Clearly, *different strategies are need for different parts of the [distribution] system* to manage the different risks.”<sup>6</sup> (Emphasis Added)
39. A “different strategy” is being urgently pursued through this Complaint for the German Village area. The GVS seeks a strategy that will minimize the hazards Columbia is attempting to impose in an historic area known not only for its reputation locally and nationally as a vibrant community of charming homes, brick streets and sidewalks, carefully tended gardens, and pedestrian friendly parks, restaurants, shops, and other businesses; but also for small parcels with structures in many cases in close proximity to the streets and alleys. This compact, dense configuration of streets, structures and alleyways will certainly increase the chances that calamitous vehicle-meter mishaps will occur.

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<sup>3</sup> *Safety incidents on Natural Gas Distribution Systems: Understanding the Hazards*, Allegro Energy Consulting, Cheryl J. Trench, President, Report at 25 (April 2005).

<sup>4</sup> *Id.*, Report at 27.

<sup>5</sup> *Id.* At 28.

<sup>6</sup> *Id.*



40. Further and more recent evidence is provided by the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA), a federal government entity within the U.S. Department of Transportation, regarding gas pipeline safety. Initial data collected for the years 2010 to 2017 indicates that gas meters located on exteriors of buildings incur reportable incidents (death or property damage in excess of \$50,000) at approximately a 90% higher rate than meters located indoors. Specifically, gas meters located outdoors are susceptible to damage or destruction from weather, vandalism and catastrophic vehicle collisions. The PHMSA's natural gas distribution incident data received by GVS comprises 678 pages of incident reports. A true and accurate copy is attached and incorporated as Attachment E. The incidents reported from various locations around the U.S. include the following:

- A vehicle collision with an exterior gas meter, causing a release of gas, which eventually ignited and exploded, causing a total loss of the structure. (p. 159)
- Natural gas released from a meter damaged because a third party buried it with snow, which caused an explosion that caused structural damage to the building. (p. 212)
- A driver who inadvertently put his car in "drive" rather than "reverse," jumped the curb and hit an exterior gas meter, causing a gas release, ignition, and fire that spread to three adjacent row homes. (p.238)
- An unintentional release of gas, which ignited, when a vehicle struck an exterior gas meter in an alley. (p. 244)
- A vehicle that struck a gas meter, causing a fire that resulted in two fatalities (the occupants of the vehicle). (p. 300)
- A vehicle that jumped the curb and hit an exterior gas meter, igniting a fire that burned part of a duplex. (p. 351)
- Vandalism of exterior meters resulting in broken meter risers. (p. 354)
- An elderly driver who lost control of her vehicle and hit an exterior gas meter, causing ignition of natural gas. (p. 367)
- A vehicle striking an exterior gas meter, igniting the released gas, which caused a fire that damaged two homes and caused more than \$50,000 worth of damages. (p. 384)

- A vehicle that jumped the curb and struck an exterior meter, releasing gas and causing a fire that burned the home and vehicle, killing the driver. (p. 431)
- A vehicle that jumped the curb and struck an exterior meter, causing a fire that resulted in both the vehicle and the home being declared total losses. The accident also killed the driver. (p. 521)
- Traffic accident resulting in a damaged gas meter that ignited and killed the driver of one of the cars. (p. 553)

These and other incidents will be more likely to occur in an area teeming with vehicles, people and limited space – unless the gas meters remain indoors in German Village.

41. The location of gas meters is governed in part by federal law, in part by state and local law, and in part by the PUCO and the tariff that Columbia Gas has on file with that agency.

42. Under federal law, there is no preference for locating gas meters either indoors or outdoors. State law provides no preference. The PUCO Administrative Code Rules state no preference. And in several of Columbia's filings, there is acknowledgment and instruction for keeping meters indoors.

43. Although the Code of Federal Regulations is agnostic about whether meters should be placed indoors or outdoors, it expressly acknowledges that outdoor meters pose a greater danger and prescribes additional safety measures for outdoor meters:

Each meter and service regulator, whether inside or outside a building, must be installed in a readily accessible location and be protected from corrosion and other damage, *including, if installed outside a building, vehicular damage that may be anticipated.*

- 49 C.F.R. § 192.353(a) (Emphasis added).

44. The current Columbia Gas of Ohio tariff on file with the PUCO provides that Columbia Gas will furnish each customer with a meter, which Columbia Gas has the right to replace as the company deems necessary. The tariff further provides that Columbia Gas, "shall determine the

location of the meter.” With respect the location of the meters in German Village that Columbia Gas now seeks to relocate under the Project, the Society and its members contend that this determination of the location of the meters has already taken place: the meters were located inside the homes and businesses at issue – and in many instances have been there for decades.

45. The Columbia Gas tariff further provides: “When changes in a building or arrangements therein render the meter inaccessible or exposed to hazards, the Company will require the customer, at the customer's expense, to relocate the meter setting together with any portion of the customer's service line necessary to accomplish such relocation.” This provision does not apply to the meters in German Village that Columbia Gas now seeks to relocate under the Project, because there are no “changes in a building or arrangements” that render the meter “inaccessible or exposed to hazards.” PHMSA data demonstrates that relocating the meters outside, rather than keeping them in place and indoors, exposes the meters to hazards and unnecessarily risks the safety of German Village residents, businesses, and tourists.

46. In Columbia's 2008 rate case Columbia Gas has also had a rate plan initially approved by the PUCO. The stated reason for moving meters outside was customer convenience. They would no longer have to deal with scheduling appointments with the meter reader.

47. An alternative rate plan was approved by the PUCO in 2012. That plan provides: “Columbia will continue to replace inside meters with outside meters as necessary to mitigate the safety risks associated with higher operating pressures. Columbia will continue to capitalize and recover costs associated with this activity through the AMRP.” (Emphasis added). Although this provision may theoretically apply to the relocation of meters in German Village, Columbia Gas has not stated that it is relocating those meters to mitigate the safety risks associated with higher operating pressures. On or about April 14, 2017, Columbia Gas of Ohio sent to residents

of German Village an information sheet regarding Natural Gas Line Replacement, as well as a list of Frequently Asked Questions (FAQs) about such replacement. True and accurate copies of these documents are attached hereto and incorporated herein as Attachments F and G respectively. Regarding relocation of meters, the information sheet directs readers to the FAQs, which state: “Relocating your meter eliminates the risk of shut-off due to access issues, and provides first responders with easy access to your meter in an emergency.” In fact, indoor gas meters need not be relocated to advance either of these two goals. There is no need for Columbia Gas to shut off a customer’s service when the customer disallows access to the indoor gas meter, because Columbia Gas now has and uses the automated meter reading technology discussed in more detail below. And first responders can shut off the gas from the access point at the curb valve, so they need not gain access to the indoor gas meter to do so.

48. Even if operating pressure is a factor, Columbia (along with other natural gas distribution companies) has instituted and provided significant, documented exceptions (both for indoor meter configuration and operating pressure) for other historic districts in Ohio and elsewhere (Including the Cities of Urbana, Ohio and Reading, PA.).
49. Columbia Gas also has on file with the PUCO an Infrastructure Replacement Plan (IRP) and related filings. Meter relocation was a part of the IRP under certain conditions, but it is not mandatory to force an implementation of these conditions on this noted historic district. By continuing to operate the system at a lower pressure, NO changes would be required to the meter location. Alternate meter set configurations could also be instituted that would allow system to operate at a higher pressure while venting the pressure regulator to the outside of the home (rather than relocating hundreds of meter sets outside in an area known for narrow streets and sidewalks, which would expose these relocated meters to additional, documented hazards).

German Village residents should not have to sacrifice their safety for the benefit of Columbia's capitalization and accounting practices. The new infrastructure can be designed to provide safe, reliable service without moving meters outside. Columbia simply has to decide they are willing to do it – or be required to do it by this Commission.

50. In May of 2017, Columbia Gas began construction work on a Pipeline Upgrade Project (“the Project”). As part of the Project, Columbia Gas on May 18, 2017, began moving gas meters in German Village that are currently indoors to outdoor locations. These meters have been afforded no protection from vehicles, weather or vandalism. (Attachment H)

51. The Society does not know precisely where on the outside of each affected property the gas meter may be placed, but the default location is likely wherever the service line enters the building, which in most cases is the front. As a result, numerous homes and businesses—including some restored historic homes—will have a gas meter placed directly in front of the home. In many instances in German Village, the gas meter will be immediately adjacent to, or will extend into, the sidewalk area between the home and the street. In other instances, meters will be relocated to exterior areas in alleys, which in German Village are frequently traveled by cars, bikes, and people.

52. The ultimate irony of Columbia Gas's Project is that the meter relocations are entirely unnecessary. In its most recent annual Infrastructure Replacement Program (“IRP”) rider adjustment filing (PUCO Case No. 16-2236-GA-RDR, filed December 27, 2016), Columbia Gas noted that between 2009 through 2013, it spent \$79.1 million in ratepayer money to install Automatic Meter Reading Devices (“AMRDs”). AMRDs allow Columbia Gas service technicians to read meters—even those located indoors—remotely from outside the property.

53. Among Columbia's November 28, 2016 pre-filing documents is a letter of notice from Columbia's president, Mr. Daniel Creekmur, to all public officials within its service area. In that letter, Mr. Creekmur highlights that AMRDs mean, "...that our customers with indoor gas meters no longer have to make access arrangements for our meter readers..." Thus, Columbia is acknowledging the continuing presence of indoor meters and noted that the \$79.1 million dollar spend was in part to accommodate indoor locations, and to provide a significant benefit those customers with indoor meters. Columbia has consistently maintained this position since its 2008 rate case.
54. The relocation of indoor gas meters under the Project will impact approximately 75% of the approximately 1,500 occupied structures within German Village. Among those properties are the headquarters of the German Village Society, as well as the homes and businesses of hundreds of German Village Society members.
55. After reviewing the PHMSA data, the German Village Society believes it is reasonable to request the Columbia, instead of risking more damage and tragic fatalities by putting more meters out in the weather and more meters in front of more cars, trucks, snowplows and lawnmowers – should, as expediently and efficiently as possible - begin *to move as many existing outdoor meters to the inside of as many structures as possible*. By doing so, Columbia will truly demonstrate its commitment to the safety of its customers by reducing further the meters outside and thereby reducing the chances of any meter-involved calamity. By not doing so, Columbia leaves many of its customers exposed to hazards that it could expeditiously prevent in the midst of its infrastructure upgrades.

**IV. COUNT 2 – HISTORIC PRESERVATION: COLUMBIA SHOULD ACKNOWLEDGE THE UNIQUE AND HISTORIC CHARACTER OF GERMAN VILLAGE AND WORK TO CONTRIBUTE TO THE MAINTENANCE OF ITS VALUE AND PRESERVATION, RATHER THAN CAUSE IRREPARABLE HARM BY DIMINISHING MORE THAN FIVE DECADES OF EFFORT RECKLESSLY PLANTING METERS AND OTHER INFRASTRUCTURE OUTSIDE.**

56. Complainant incorporates the allegations contained in paragraphs 27 to 55 above.

57. In addition to the irreparable harm to German Village caused by the systematic implementation of widespread, unnecessary, and increased safety risks, both the German Village Society and its members and residents have suffered or face serious and irreparable diminution in value of their real property if their indoor gas meters are relocated outdoors. Part of what attracts residents, business owners, and tourists to the German Village neighborhood is the historically accurate, aesthetic quality of the neighborhood. Simply put, residents, businesses, and tourists seek out and pay for the authenticity of the neighborhood. All of that will be irreparably damaged after more than five decades of work by thousands of Columbus residents and business owners to maintain this aesthetic quality.

58. Historic preservation-based economies are dependent upon the existence and maintenance to specific standards promulgated by and from notable architectural resources. These resources may be landscapes (civil war battle fields such as Antietam) Commercial districts such as the French Quarter of New Orleans, or residential districts such as Beacon Hill in Boston, Palmer Woods in Detroit or Columbus' own German Village, which is a mix of residential and commercial. All geographically delineated districts contain a local economy articulated through real estate values, visitor counts, place-centered businesses and 'brand reach' - meaning recognition as destinations unto themselves across a regional or national area.

59. Across the United States, real estate values within designated historic districts consistently outperform those outside of these districts. This is predominantly due to the fact that historic districts require and enforce design control, requiring exteriors to remain pristine and reflective of the designated period of significance, free of adulteration from inappropriate changes.
60. These requirements are enforced, usually by local ordinance, and executed via Historic District Commissions. Purchasers of property within a designated district often do so knowing the entire district will be held to the same standards in maintaining historic character and integrity. They rely on this aspect to ensure stable and perhaps increasing property values. **Designation adds certainty to the marketplace.**
61. Real estate agents rely on the maintenance of these standards as a reliable component of a historic preservation-based economy. Place centered businesses rely upon the ‘brand’ such as ‘German Village’ to add value to marketing efforts. Evidence of this may be found in the example of small businesses relating to the district by name, being associated with a district is a benefit to the business that translates into revenue. For a specific example, one could look at the example of the German Village Animal Hospital. It is not in German Village, but the name provides recognition – and tangible, demonstrated value. Realtors in Columbus often use the phrase ‘near German Village’ when advertising properties close - but not in - the actual district. The brand adds value. This is a component of a historic preservation-based economy.
62. The city of Columbus and the State of Ohio embrace German Village as a tourism destination because of the positive, consistent economic impact it produces (See Attachments B and C). It is the highest property value neighborhood in Columbus.
63. The German Village Society runs 2-3 tours each week during peak season. Several independent tour operators also utilize German Village as a destination.



64. The GVS hosts several school groups throughout the year who travel from around the state to experience German Village and study the historic elements found within. Design guidelines ensure that each component of the physical fabric of the district tells an accurate story to those students.
65. All of these elements are components of a historic preservation-based economy operating in and around ‘German Village’. The success of that economy is directly dependent upon one thing: Protecting the historic attributes of the district so that it remains true to its origins, reflects accurately its history and maintains design standards vigilantly. This is one critical benefit to the creation of a district.
66. The Historic District Commission is empowered to uphold specific standards as described in the German Village Design Guidelines Handbook. Every property owner refers to this set of Guidelines when considering an exterior alteration. This includes lighting, driveways and landscaping features. This applies to businesses and private residences. The GVS works with the city to uphold guidelines for roads and sidewalks in order to maintain the historic fabric of the ENTIRE district. Height, setbacks, materials and massing are all reviewed for any infill or new construction. Those too must be supportive and suitable for the district. The only entity that does not have to go through design review are public utilities.
67. If Columbia Gas were to be held to the same design review process owners of properties are held to, they would likely not be allowed to install meters outside in the current configuration because of what is defined as an ‘adverse effect’ on the exterior of any building.
68. Whether or not respondent utility is “immune” from the guidelines of an historic district, as a locally based corporate entity, Columbia should try to figure out how its infrastructure upgrade

efforts may be harmonized with five decades of sincere and consistent effort, rather than refusing to consider a district-appropriate alternative.

69. The utility should be able to consider the efforts of the city and state to assist in the maintenance of the district, rather than dismiss the economic impact of such a long-term project on the community for its own, specific monetary benefit.

70. At the very least, Columbia Gas of Ohio should respect the efforts and expense borne by its customers and its Columbus neighbors in pursuit of excellence. Columbia Gas of Ohio, with a little bit of effort, could resolve the issue by employing some engineering creativity.

71. If Columbia Gas of Ohio cannot bring itself to resolve the issue, then the GVS requests that the Commission consider the legitimate evidence of the safety hazards about to be unleashed and the economic blow that may occur due to the activities of a public utility on the community that the GVS represents. The PUCO was created in part to protect citizens against such corporate encroachment.

72. Some members of the Society have already suffered the loss of property value as a result of the meter relocations that took place on May 18, 2017. Both the Society and its members will suffer losses to their property value of their homes and/or businesses if Columbia Gas completes the Project.

73. The necessary public service that Columbia Gas of Ohio competently provides can be accomplished in a myriad of configurations that do not diminish safety, surroundings or space.

**V. COUNT 3 – PLANTING HUNDREDS OF METERS OUTSIDE IN GERMAN VILLAGE WILL DIMINISH PRECIOUS OUTDOOR SPACE CURRENTLY ENJOYED AND EMPLOYED BY GERMAN VILLAGE RESIDENTS, BUSINESSES AND VISITORS.**

74. Complainant incorporate paragraphs 56 to 73 above.

75. Outdoor gas meters and other infrastructure also pose problems for space and access in outdoor locations in densely packed and populated urban inner-core neighborhoods like German Village, which has small lot sizes, homes that are close together, and homes that are directly adjacent to pedestrian sidewalks (i.e. no front yards or minimal front yards).
76. The federal regulation presented above requires protection of the meter assembly from weather exposure, vehicle traffic and vandalism. This regulation has been adopted by the PUCO in its gas service and safety Rules.
77. The means that, in addition the meter, riser and other infrastructure, bollards, boxes, shading and other protective infrastructure would need to accompany any outdoor meter installation.
78. Therefore, the loss of space that is already a precious commodity will be diminished on German Village sidewalks, streets and alleyways. This loss is unnecessary and will be significant.

**VI. RELIEF: THE GERMAN VILLAGE SOCIETY REQUESTS RELIEF THAT PROVIDES SAFE OPERATION OF THE NATURAL GAS DISTRIBUTION SYSTEM WHILE ALLOWING METERS TO REMAIN INDOORS.**

79. Complainant incorporate paragraphs 74 to 78 above.
80. After a review and presentation of the PHMSA data from 1999 to the present, the GVS has demonstrated that enough verifiable evidence exists to show that Columbia's plan to move the gas meters outside of the 75% of the approximately 1600 structures from indoors in the German Village area has the potential to cause fatalities and significant property damage.
81. The GVS requests that Columbia be prohibited from moving any more indoor natural gas meters to the outdoors.

82. The GVS requests that the Commission assist in striking a balance between the public utility's provision of service and the need to protect an historic neighborhood that is an economic boon to the City and the State.
83. The GVS requests that Columbia be ordered to implement a plan that keeps meters inside of the historic structures, in order to keep residents safe, protect German Village properties and their historic character, and to allow precious outdoor space to be employed for other purposes.
84. This is not an unprecedented request. Within the last two years, Columbia made such an effort in the Urbana, Ohio historic district. There, the meters would have been installed on the sidewalk in front of commercial buildings.
85. Columbia allowed the historic business district business to keep the meters indoors.
86. There are several other examples from other jurisdictions, all or part of which could be utilized to resolve the dispute between the German Village Society and respondent.

**VII. MEMORANDUM IN SUPPORT OF THE GERMAN VILLAGE SOCIETY'S MOTION FOR A TEMPORARY INJUNCTION AGAINST COLUMBIA GAS METER RELOCATION AND REQUEST FOR AN EXPEDITED RULING.**

This memorandum in support incorporates the information presented in the Complaint above.

In *Corbett v. Ohio Building Authority* (Franklin Cty. App. 1993), 86 Ohio App.3d 44, the Franklin County Court of Appeals set forth the factors considered in connection with a motion for injunctive relief:

In general, courts will consider the following factors in deciding whether to grant injunctive relief: (1) the likelihood or probability of a plaintiff's success on the merits; (2) whether the issuance of the injunction will prevent irreparable harm to the plaintiff; (3) what injury to others will be caused by the granting of the injunction; and (4) whether the public interest will be served by the granting of the injunction.

*Id.* at 49; *see also Thomas J. Dyer Co. v. Franklin County Convention Facilities Authority* (Franklin Cty. C.P. 1990), 61 Ohio Misc.2d 132, 133-34. A stronger showing of likelihood of success is required

as the other factors militate against granting relief, but less likelihood of success is required when they support granting relief. See *Performance Unlimited, Inc. v. Questar Publ'rs, Inc.*, 52 F.3d 1373, 1386-86 (6th Cir. 1995); See *DT Fashion LLC v. Santana Jade Cline & The Dark Monkey LLC*, Case No. 2:15-cv-03020, 2015 BL 387854 (S.D. Ohio, E.D., Nov. 24, 2015).

The purpose of a temporary restraining order or injunction is to preserve the status quo until the court can make a decision on the merits. See, e.g., *Ankrom v. Hageman*, 10th Dist. No. 06AP-735, 2007-Ohio-5092, ¶ 12. The same is true of a preliminary injunction. *Arthur Young & Co. v. Kelly*, 68 Ohio App. 3d 287, 291 (10th Dist. 1990) (purpose of the preliminary injunction is to maintain the status quo pending determination of the underlying action).

Here, the merits of the issues regarding safety, as well as interpretation and application of the relevant laws, regulations, tariffs and rate plans concerning meter location, will be determined by the PUCO. The PUCO has jurisdiction over claims that relate to utility service issues. *Corrigan v. Illuminating Co.*, 122 Ohio St.3d 265 (2009).

A temporary injunction preserves the ability of the PUCO to make any service-related decisions in a meaningful way – without rendering the decisions moot before they are made. In addition, the other factors relevant to a request for a temporary restraining order (*i.e.*, harm to GVS if the injunction is not granted; harm to other parties if the injunction is granted; and the public interest) all strongly support the issuance of a temporary restraining order.

**1. Likelihood or Probability of Complainant's Success on the Merits**

The *relocation* of gas meters is constrained by requirements that Columbia Gas does not meet. Such relocation based upon the existing tariff and/or rate plan is limited to situations where: (1) there are changes in a building or arrangements that render the meter inaccessible or exposed to hazards (in

which case the customer is required to relocate the meter), or (2) relocation to the outside is necessary to mitigate the safety risks associated with higher operating pressures.

The Columbia Gas tariff provides: “When changes in a building or arrangements therein render the meter inaccessible or exposed to hazards, the Company will require the customer, at the customer's expense, to relocate the meter setting together with any portion of the customer’s service line necessary to accomplish such relocation.” This provision does not apply to the meters in German Village that Columbia Gas now seeks to relocate under the Project, because there are no “changes in a building or arrangements” that render the meter “inaccessible or exposed to hazards.”

Columbia Gas had an alternative rate plan approved by the PUCO in 2012. That plan provides: “Columbia will continue to replace inside meters with outside meters *as necessary to mitigate the safety risks associated with higher operating pressures*. Columbia will continue to capitalize and recover costs associated with this activity through the AMRP<sup>7</sup>.” Although this provision may theoretically apply to the relocation of meters in German Village, Columbia Gas has not stated that it is relocating those meters to mitigate the safety risks associated with higher operating pressures.

On or about April 14, 2017, Columbia Gas of Ohio sent to residents of German Village an information sheet regarding Natural Gas Line Replacement, as well as a list of Frequently Asked Questions (FAQs) about such replacement.<sup>8</sup> Regarding relocation of meters, the information sheet directs readers to the FAQs, which state: “Relocating your meter eliminates the risk of shut-off due to access issues, and provides first responders with easy access to your meter in an emergency.” In fact, indoor gas meters do need not be relocated to advance either of the foregoing objectives. There is no need for Columbia Gas to shut off a customer’s service when the customer disallows access to the

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<sup>7</sup> “AMRP” is the abbreviation for Accelerated Main Replacement Program.

<sup>8</sup> Copies of the information sheet are Attachment F.

indoor gas meter, because Columbia Gas now has and uses automated meter reading technology. Likewise, in the case of an emergency, first responders are able to shut off the gas from the access point at the curb valve, so they do not need to gain access to the indoor gas meter.

Finally, with respect to the paramount concern of safety, the German Village Society's Complaint references and attaches the PHMSA gas pipeline safety initial data collected for the years 2010 to 2017 which indicates that gas meters located on exteriors of buildings incur reportable incidents (death or property damage in excess of \$50,000) at approximately a 90% higher rate than meters located indoors. The PHMSA's natural gas distribution incident data comprising 678 pages of incident reports is attached to the Complaint. In addition, the Verified Complaint also references and attaches an April, 2005 report prepared by Allegro Energy Consulting for the Office of Pipeline Safety at the U.S. Department of Transportation. The Allegro Report noted that from 1999-2003, the gas distribution industry reported 634 safety incidents in the U.S., more than 10% of which were caused by vehicles (other than excavators) damaging meters.

Regarding the critical issue of safety, 49 C.F.R. § 192.353(a) provides:

Each meter and service regulator, whether inside or outside a building, must be installed in a readily accessible location and be protected from corrosion and other damage, *including, if installed outside a building, vehicular damage that may be anticipated.*

(Emphasis added.) The relocations in German Village as a part of this project to date reveal a lack of protection for meters relocated to locations outside of structures in German Village. They have been placed close to ignition sources and not afforded the protection required by the federal regulations, which the PUCO has adopted. These structures are on small lots, close to the roadway, and are directly adjacent to pedestrian sidewalks with no – or minimal -- front yards. In many instances in German Village, the gas meter will be immediately adjacent to, or will extend into, the sidewalk area between

the home and the street. In other instances, meters will be relocated to exterior areas in alleys, which in German Village are frequently traveled by cars, bikes, and people.

GVS's high likelihood of prevailing on the safety issue alone supports the approval of a temporary injunction that will allow a very brief respite while the PUCO addresses any service related issues within its jurisdiction.

**2. Whether the Issuance of the Injunction Will Prevent Irreparable Harm to the Complainant**

Without an injunction, Columbia Gas will continue to relocate gas meters in a manner that is compromising public safety, a problem compounded by the aesthetics and features of the historical German Village neighborhood. Therefore, the Commission's decision on this important issue should not be rendered moot by the continued, ill-advised replacement of meters, until the PUCO issues a decision in this proceeding.

**3. What Injury To Others Will Be Caused By The Granting Of The Injunction**

Issuance of an injunction may result in a delay of only a small part of Columbia Gas's ongoing meter relocation Project during the pendency of this case. Although there is arguably a slight injury to Columbia Gas that would result from the issuance of an injunction, Columbia Gas can proceed with other aspects of its infrastructure improvement plan while the PUCO and this court determine whether Columbia Gas has the authority to relocate the indoor German Village meters, and whether it has commenced ill-advised relocations as set forth in GVS's Complaint. Simply put, Columbia Gas is the largest natural gas distribution company in the state. It can temporarily allocate its resources elsewhere, as it has several projects listed in its latest IRP filing for 2017. Also, the GVS is only requesting a specific stay of any further meter relocation. So the main and service line replacements may continue in German Village.



**4. Whether The Public Interest Will Be Served By The Granting Of The Injunction**

The public interest decidedly favors GVS and its 994+ member residents in this matter, as well as the businesses in German Village and the visitors who frequent its streets and sidewalks. The safety considerations have tremendous impact on the public interest and support GVS's position here. In addition, preservation of the status quo to allow the PUCO to decide these service-related issues in its jurisdiction and its area of expertise also is in the public interest.

**VIII. REQUEST FOR EXPEDITED RULING**

The German Village Society requests an expedited ruling on its motion for injunction as allowed in Ohio Administrative Code 4901-1-12(C). The reasons for this request are presented in the above memorandum in support. GVS cannot certify that no party has an objection to this request.

**IX. CONCLUSION**

For the reasons stated above, GVS respectfully requests that its motion for a temporary restraining order be granted.

Respectfully submitted,

/s/Christopher J. Allwein

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Summary: Motion for Temporary Injunction, Request for Expedited Ruling and a Complaint Against Columbia Gas of Ohio, Inc. electronically filed by Mr. Christopher J. Allwein on behalf of German Village Society, Inc.