

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

The German Village Society, Inc.,)	
)	
Complainant,)	
)	Case No. 17-1298-GA-CSS
v.)	
)	
Columbia Gas of Ohio, Inc.,)	
)	
Respondent.)	

**COLUMBIA GAS OF OHIO, INC.'S
REPLY TO THE MEMORANDUM CONTRA OF
THE GERMAN VILLAGE SOCIETY, INC. TO
COLUMBIA GAS OF OHIO, INC.'S
MOTION TO DISMISS WITH PREJUDICE**

1. INTRODUCTION

It is uncontested that federal law permits pipeline operators to place meters and service regulators inside or outside. It is uncontested that federal law imposes different requirements on both inside and outside meter sets to ensure their safety. It is also uncontested that Columbia's and other Ohio natural gas utilities' tariffs allow those utilities to determine the location of each customer's meter. It is uncontested that PHSPA and industry guidance agree that outside meter sets are "preferable" and "desirable." And, it is uncontested that the Commission has explicitly authorized Columbia to replace aging, low pressure cast irons mains with new plastic, medium pressure mains as part of its 25-year infrastructure replacement program.

The German Village Society, Inc. ("Society" or "Complainant"), a non-profit civic association dedicated to historic preservation, believes that Columbia, Ohio's natural gas utilities, industry guidance, PHSPA, and the Commission are all dangerously misguided. According to the Complainant, the information that a motor vehicle causes a reportable incident by hitting an outside meter some-

where in the United States about once every five weeks, and the information that there was one reportable incident in the United States involving vandalism to an outside meter in the last seven years, renders it untenably dangerous to move meters outside in German Village.¹ The Complainant further posits that the photographs it has presented the Commission, showing a handful of meters (at unspecified locations) within view of the street or otherwise left open to random attacks of vandalism, demonstrate that Columbia does not follow federal pipeline safety standards.²

Accordingly, on behalf of the small fraction³ of German Village residents or property owners who have actively “authorized” the Society to represent their interests in this proceeding, the Complainant now seeks Commission authority to impose upon every Columbia customer in the village the Society’s opinions on pipeline and natural gas safety, and its views on the appropriate level of historic preservation for German Village with regard to meter relocations. The Complainant asks this Commission to overrule the preferences of every Columbia customer that does not support the Society’s position and does not oppose their own meter move-outs to a location agreed to between these customers and Columbia. Moreover, the Complainant opposes Columbia’s proposal to, at a minimum, join those Society members directly affected by the Columbia’s natural gas pipeline project in German Village (“the Project”) who are challenging their meter location so that Columbia and the Commission may consider the specific locations and circumstances of their properties.⁴ Instead, the Complainant asks the Commission to take its word that it is infeasible to relocate most German Village meters outside to safe, unobtrusive locations.

The Commission should reject the Complainant’s hyperbolic safety claims. As proven in Columbia’s Motion to Dismiss, locating customer meters outside is standard and recommended industry practice.⁵ Any concerns about the safety or visibility of individual meter locations can best be addressed on a meter-by-meter basis.⁶ And, the Complainant’s proposal to turn this proceeding into a class action, with the Society as the class representative, is both infeasible (from an evidentiary perspective) and unlawful.⁷ For all of these reasons, as ex-

¹ Complaint at 9-10.

² Memorandum Contra at Attachments A and B.

³ Motion to Dismiss at 17-18.

⁴ *Id.* at 14-19.

⁵ *Id.* at 10-11.

⁶ *Id.* at 4, 16.

⁷ *Id.* at 17-18.

plained in Columbia's Motion to Dismiss and further discussed below, Columbia renews its Motion and asks the Commission to dismiss the Society's Complaint.

2. LAW AND ARGUMENT

2.1. The Society fails to set forth reasonable grounds for complaint.

The Society agrees it bears the burden of proof.⁸ The Society must prove reasonable grounds for complaint before the Commission will set a case for hearing.⁹ "Broad, unspecific allegations are not sufficient to trigger a whole process of discovery and testimony."¹⁰ The "Commission relies on the coherence of the complaint and argument in its support" to determine whether reasonable grounds for complaint have been set forth.¹¹ The Society entirely fails to support its claims that Columbia's meter relocations are unlawful or unreasonable, thereby failing to set forth reasonable grounds for complaint.

2.1.1. Federal rules strongly prefer outdoor meter locations.

The Complainant argues that the federal rules support its position that the meters may and should remain indoors.¹² The Complainant points to 49 CFR 192.353 (a), (b), and (c) and concludes that Columbia agrees these are the most pertinent rules in the case.¹³

The Complainant conveniently ignores that 49 CFR 192.353 and the other rules cited in Columbia's Motion to Dismiss also prescribe additional safety measures for indoor meters.¹⁴ In fact, there are more rules related to indoor me-

⁸ Memorandum Contra at 3.

⁹ *In the Matter of the Complaint of the Office of the Ohio Consumers' Counsel v. The Dayton Power and Light Company*, Case No. 88-1085-EL-CSS, 1988 Ohio PUC LEXIS 983, Entry at *10 (September 27, 1988).

¹⁰ *Id.*

¹¹ *Id.*

¹² Memorandum contra at 4.

¹³ *Id.*

¹⁴ The Society's misdirection should be explained. Columbia's Motion to Dismiss (at 5) discusses the "most pertinent PHSMA rules at issue" – plural – and then lists the text of the other two rules that the Society continues to conveniently ignore that support the location of meters outside. Columbia did not indicate, and does not agree that, just the three subsections of 49 C.F.R. § 192.353 are the most pertinent sections. 49 C.F.R. § 192.355(b), and 49 C.F.R. § 192.357(d) must also be considered in this analysis.

ters than outdoor meters.¹⁵ Contrary to the Complainant's assertions, neither set of requirements, by itself, indicates that indoor meters are either more or less safe than outdoor meters. Instead, because there are more regulations for indoor meters than outdoor, and because of the reasons stated in Columbia's Motion to Dismiss,¹⁶ the federal rules strongly prefer outdoor meter location.

2.1.2. Federal reports and statistics and industry practice demonstrate the industry practice of placing meters outside.

Next, the Complainant posits that federal reports and statistics, along with industry practice, support the Society's position.¹⁷ The Complainant cites again its alleged "significant, catastrophic data" about outdoor safety risks.¹⁸ The Complainant's claims are taken out of context and exaggerated. "As ever, '[s]ome people believe with great fervor preposterous things that just happen to coincide with their self-interest.'"¹⁹ That is the case here. The Complainant interprets Columbia's Motion as admitting there is danger in outdoor placement that does not occur with the same frequency as indoor locations²⁰ and claims the small chance of danger cited by Columbia is still greater by several times than such an event occurring with an indoor meter.²¹ The Commission should reject each of these arguments for the reasons spelled out below.

2.1.3. Guidance from governing federal agencies show a clear preference for outdoor meters.

As Columbia cited in its Motion to Dismiss, federal guidance on pipeline safety, such as PHMSA's own *Guidance Manual for Operators of Small Natural Gas Systems*, expressly recommends that meters and service regulators be installed "outside if possible" and "in a readily accessible location."²² The Guidance Manual adds that, "[i]f a meter set must be located where a vehicle would damage the meter set, a suitable barricade must be installed[.]" and that "[a]dditional

¹⁵ 49 C.F.R. § 192.353(b), 49 C.F.R. § 192.355(b), and 49 C.F.R. § 192.357(d).

¹⁶ Motion to Dismiss at 5-7.

¹⁷ Memorandum Contra at 6.

¹⁸ *Id.*

¹⁹ *Kendrick v. E. Ohio Gas Co.*, 146 Misc. 2d 6, 2007-Ohio-7266, at ¶5 (Cleveland Mun. Ct. 2006).

²⁰ Memorandum Contra at 6.

²¹ *Id.*

²² See PHMSA *Guidance Manual for Operators of Small Natural Gas Systems*, Chapter VII-1, found at [https://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/Small_Natural_Gas_Operat_or_Guide_\(January_2017\).pdf](https://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/Small_Natural_Gas_Operat_or_Guide_(January_2017).pdf). This manual "was developed to provide an overview of pipeline compliance responsibilities under the federal pipeline safety regulations ***."

protection for outside meters may be necessary where ice or snow falling from roofs may damage the meter or block the regulator vent.”²³

Rather than indicating that outdoor meter sets are uniquely dangerous, this guidance demonstrates that Columbia can mitigate potential damage of these sorts by installing appropriate protections when vehicular damage is reasonably anticipated by Columbia. The federal guidance available demonstrates that outdoor meter locations are preferred, and the Commission should reject the Complainant’s attempt to prevent Columbia from putting meters in safe, outside locations.

2.1.4. The bare statistics cited by the Complainant fail to prove outdoor meters are hazardous.

The Complainant’s frequently used claim that indoor meters are safe from outdoor hazards should also be rejected. Indoor meters pose their own risks. While common sense dictates that indoor meters are likely not going to be hit by cars, subject to vandalism, or subject to other outdoor dangers,²⁴ the dangers with outdoor meter placement are less than the dangers associated with indoor meter locations.²⁵ Overall risks are reduced when meters are placed outside rather than inside – a point ignored by the Complainant.

Instead, Columbia explained in its Motion to Dismiss that the statistics cited by the Complainant, from various studies and publicly-available PHMSA data, fail to prove the Complainant’s perceived dangers associated with outside meters.²⁶ Therefore, the Commission should disregard Complainant’s attempts to claim a safety risk which it cannot prove.

2.1.5. Industry practice supports outdoor meter locations.

The Complainant challenges Columbia’s assertion that outdoor meters are supported by industry practice. The Society claims the *Guide for Gas Transmission, Distribution, and Gathering Piping Systems* (“the Guide”) from the Gas Piping Technology Committee (“GPTC”) supports its claims on indoor meters.²⁷ Specifically, the Complainant notes that the Guide speaks to accessibility to the meter

²³ *Id.*

²⁴ Memorandum Contra at 5.

²⁵ *See Id.* at 6.

²⁶ Motion to Dismiss at 11-12.

²⁷ Memorandum Contra at 6.

and to the shutoff valve. The Complainant then alleges that current, indoor meters are accessible and curb stops provide sufficient access to a shutoff valve.²⁸ The Complainant cites the “vehicular damage is reasonably anticipated” standard, saying the addition of “posts, parking bumpers, and barricades” will only hamper safety in German Village while at the same time criticizing Columbia for not putting in any of these supposedly unseemly protections on meters moved outside on the Project.²⁹

As Columbia explained in its Motion to Dismiss, industry practices supports the reasonableness of Columbia’s actions to move indoor meters outside.³⁰ The Guide states that “[a]n outside, above ground meter location is desirable when weather conditions, availability of space, and other conditions permit.”³¹ The Guide adds that “each meter and service regulator [must] be installed in a readily accessible location” that “should accommodate access for reading, inspection, repairs, testing, changing, and operation of the gas shut-off valve.”³² If the outside meter is installed at a “location where vehicular damage is reasonably anticipated,” it says, the operator should consider “some means of providing protection to the meter set assembly,” such as moving it back from “roadways or driveways” or installing “posts, parking bumpers, or barricades.”³³ The Guide provides that inside meter locations may be considered if “[a]n acceptable outside location is not available or practical.”³⁴

Columbia admits that the Guide does not state that indoor meters are never acceptable. What the Guide does state, and what the Complainant ignores, is that an outdoor location is “desirable” and the presumption in the Guide that an indoor location will only be considered if an outdoor location is not available or practical.³⁵ Columbia’s plans are entirely consistent with the Guide. Columbia has installed, and will install, meters in the safest location and that location will be outside in almost all circumstances.

²⁸ *Id.* at 6.

²⁹ *Id.*

³⁰ Motion to Dismiss at 10-11.

³¹ Motion to Dismiss, Attachment A at 1 of 3 (Accredited Standards Committee, Gas Piping Technology Committee, ANSI/GPTC Z380.1, *Guide for Gas Transmission, Distribution, and Gathering Piping Systems*, § 192.353, General Recommendations at 161.)

³² *Id.*

³³ *Id.* at 2 of 3 (Outside Meter or Service Regulator Locations at 162.)

³⁴ *Id.* at 3 of 3 (Outside Meter or Service Regulator Locations at 163.)

³⁵ *Id.* at 2 of 3 (Outside Meter or Service Regulator Locations at 162). Columbia acknowledges inside meters are also considered acceptable in situations where protection from ambient temperatures is necessary to avoid meter freeze-ups. That situation is not present in the Project.

Further, outdoor meters are more accessible than indoor meters. An outdoor meter is easier to read, inspect, repair, test and change. More importantly, from a safety standpoint, outdoor meters provide significant safety benefits for first responders. Outdoor meters are much larger and more visible than a curb valve and can be found much quicker by Columbia employees and first responders. Once an outdoor meter is located, gas can be easily turned off at the meter. However, curb boxes can be difficult to locate, and often times can contain debris that must be cleaned out before gas can be shut off at the curb box. In emergency situations, delays of any sort can be critical. Furthermore, the Complainant seems to make the unsupported assumption that first responders routinely carry curb valve keys. The existence of curb boxes simply does not eliminate the desirability of outside meter locations.

2.1.6. Columbia places meters in the safest location, including in the Project.

The Complainant maintains that Columbia has relocated meters to unsafe locations in violation of federal rules.³⁶ To support this claim, the Complainant attached to its Complaint as well as its Memorandum Contra pictures of meters with assertions of alleged violations of the PHMSA rules and Columbia standards related to outdoor meter locations.³⁷ The Complainant further claims that existing indoor meters in German Village meet the requirements of 49 CFR 192.353,³⁸ and thus, the Complainant argues, there is no reason to move the meters outdoors and to do so would be unsafe.³⁹

Initially, Columbia's relocations of meters in the Project have complied with federal and state pipeline safety rules. Though the pictures attached, without labels, addresses, context, distances, or any distinction to show where these meters are located, or when they were installed, claim to show violations of rules, the Complainant has failed to identify where such violations exist. There is a reason for this identification gap – no such violations exist. Rather, Columbia has been working with its customers on the Project to find outside meter locations that meet the federal and state pipeline safety rules, Columbia's gas standards and tariff, and industry practice. Even assuming such PHMSA rule or Columbia

³⁶ Memorandum Contra at 3-4.

³⁷ *Id.* at Attachments A and B.

³⁸ *Id.* at 4.

³⁹ *Id.*

standard violations are to be investigated, the proper forum for that kind of case is a GPS case initiated by Staff, not a complaint case.

The Complainant's arguments further ignore the well-known fact that the new system will be a medium pressure system. As Columbia explained in its Motion to Dismiss, the Complainant in this case challenges facility work associated with the Project.⁴⁰ The Project is replacing mains on S. High Street, S. Pearl Street, City Park Avenue, W. Livingston Avenue, E. Blenkner Street, E. Hoster Street, E. Beck Street, and E. Willow Street.⁴¹ The current gas system in the Project is low pressure, cast iron mains, and once replaced, will be a plastic, medium pressure system.⁴² With the system upgrade, Columbia intends, and has begun, to move these meters to safe locations in accordance with Columbia's gas standards and its tariff, which includes outside locations.⁴³

Meters should be outside in a medium pressure system. The increased pressure magnifies the dangers of indoor meters. If a meter leaks indoors or the regulator is not properly ventilated, a leak will release a significantly greater quantity of gas in a shorter time period. And, the ordinary meter set and configuration for an indoor meter has more possible leak points than do outside meters. Additionally, during its work on the Project, Columbia has encountered several Grade 1 leaks on inside meters when those meters were being moved outside.

As the Operator with a non-delegable duty to follow the PHMSA rules, Columbia's decisions as to meter location should be given primacy. Columbia is willing to discuss with customers on the Project the safest location for meters. However, in almost all instances, an outdoor meter is safer than an indoor meter and Columbia, given its non-delegable duties, should be permitted to place its meters in the place that allows Columbia to meet its obligations under federal and state safety rules.⁴⁴

⁴⁰ Motion to Dismiss at 3.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.* at 3, 6.

2.2 The Society's participation should be limited to representing only directly affected Society members on the Project who are challenging their meter location, and the Commission should order the directly affected customers to be joined to the Complaint individually.

In its Memorandum Contra, the Complainant continues to assert its claim that it represents the larger German Village area, noting that the Society's Board voted on behalf of all 994 members to support the Complaint.⁴⁵ The Society likens itself to industry groups, associations, and other representative groups that appear in front of the Commission.⁴⁶ The Society also seeks to cast this case as not about individual placement issues, but rather about a collective decision to place all meters outside as well as overall safety, historic preservation, and space issues that are common to all German Village residents.⁴⁷

The Commission should reject the Society's broad, unsupported statements about what its advocacy role should be in this case. The Complainant completely fails to respond to Columbia's most basic challenges to the Society's place in this case. For example, the Society:

- Fails to answer why the Society should be allowed to be the sole complainant when very individualized safety and considerations for each customer on the Project are at issue.⁴⁸
- Fails to respond to Columbia's arguments about how this case and the Society's role in this case is not like other Commission proceedings where groups or associations participate.⁴⁹
- Dodges entirely the fact that the Society is effectively proposing a class action complaint and the Commission's rules of practice do not allow class actions.⁵⁰

⁴⁵ Memorandum Contra at 7.

⁴⁶ *Id.*

⁴⁷ *Id.* The Society claims that its interests are for all of German Village because a Columbia representative "noted that all customers in German Village would eventually have their meters moved out." *Id.* While this statement, unsupported with an affidavit, cannot be admissible evidence, even if true, the Society's claims would lack ripeness and are not properly addressed in this Complaint.

⁴⁸ Motion to Dismiss at 16-17.

⁴⁹ *Id.* at 15-17.

⁵⁰ *Id.* at 17-18.

- Fails to explain how its representation will not violate the Commission's rules requiring an attorney to represent any party not appearing themselves.⁵¹

For the reasons explained in Columbia's Motion to Dismiss,⁵² the Commission should find that the Complainant may only represent those Society members on the Project who are "directly affected" by the Project. In other words, the Commission should limit the Society's representation to only those German Village residents or property owners who satisfy all four of the following criteria: (1) customers (2) on the Project (3) who are members of the Society and are (4) directly affected by the Project (i.e., do not want their meters moved outside). The Commission should also make clear that the Society cannot represent non-members either on the Project or German Village as a whole.

3. CONCLUSION

The Complainant's arguments lack validity. Having failed to allege any violation of a statute, rule or tariff, the Complainant has failed to state reasonable grounds for complaint. Columbia respectfully requests the Commission grant this Motion to Dismiss with Prejudice for the reasons contained herein.

If the Commission denies Columbia's Motion to Dismiss, the Commission should limit the Society's representation to only those German Village property owners or residents who satisfy the following four criteria: (1) customers (2) on the Project (3) who are members of the Society and (4) do not want their meters moved outside. The Commission should also make clear that the Society cannot represent non-members who are directly affected by the Project. Finally, consistent with Commission precedent, the Commission should order the Society to promptly amend the Complaint to ratify, join, or substitute the Society members on the Project who are directly affected by the Project and are challenging their meter location.

⁵¹ *Id.*

⁵² *Id.*

Respectfully submitted by

COLUMBIA GAS OF OHIO, INC.

/s/ Stephen B. Seiple

Stephen B. Seiple, Counsel of Record

Mark S. Stemm (0023146)
Eric B. Gallon (0071465)
Porter, Wright, Morris & Arthur LLP
Huntington Center
41 South High Street, Suite 3000
Columbus, Ohio 43215-6194
Telephone: (614) 227-2000
Email: egallon@porterwright.com
mstemm@porterwright.com

(Willing to accept service by e-mail)

Stephen B. Seiple, Asst. General Counsel (0003809)
Joseph M. Clark, Senior Counsel (0080711)
P.O. Box 117
290 W. Nationwide Blvd.
Columbus, Ohio 43216-0117
Telephone: (614) 460-4648
E-mail: sseiple@nisource.com
josephclark@nisource.com

(Willing to accept service by e-mail)

Attorneys for
COLUMBIA GAS OF OHIO, INC

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German Village Society, Inc.

callwein@keglerbrown.com

/s/ Stephen B. Seiple

Stephen B. Seiple

Attorney for

COLUMBIA GAS OF OHIO, INC.

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Summary: Reply to the Memorandum Contra of The German Village Society, Inc. to Columbia's Motion to Dismiss electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc.