

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbia)
Gas of Ohio, Inc. for Approval of an Alternative) Case No. 17-2202-GA-ALT
Form of Regulation.)

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Columbia Gas of Ohio, Inc. ("Columbia" or "Utility") seeks to establish a new charge to customers for the expenses Columbia has incurred and deferred under its Capital Expenditure Program ("CEP"). Specifically, the purpose of the CEP Rider charge is to collect post-in-service carrying costs, incremental depreciation expense, and property tax expense currently being deferred, as well as a return on and of the corresponding assets to which these expenses are directly attributable in the CEP.¹ In addition, Columbia's Application seeks to continue charging customers under a straight fixed variable rate design and to continue charging customers for its energy efficiency programs.² OCC is filing on behalf of all the 1.3 million residential utility customers of Columbia.³ The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support

¹ Application at 1, 5-6.

² Application at 7.

³ See R.C. Chapter 4911.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

This case involves a newly proposed charge on customers' bills for the collection of costs from customers for Columbia's capital expenditure program.⁴ Columbia also requests that it be permitted to continue using a straight fixed variable rate design, which allows it to charge customers a fixed, monthly charge for natural gas service.⁵ Finally, Columbia seeks to continue its energy efficiency programs, which customers must pay for.⁶ OCC has authority under law to represent the interests of all of Columbia's approximately 1.3 million residential natural gas 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 that involves an investigation into the amount of costs Columbia seeks to collect from its customers. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

⁴ Application at 1-7.

⁵ Application at 7.

⁶ Application at 7.

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 Columbia's residential customers in this case involving whether Columbia is allowed to charge customers for costs it has spent under its energy efficiency programs and for costs it has spent and deferred under its CEP. OCC also has an interest in Columbia's straight fixed variable rate design proposal, which impacts the manner in which Columbia's residential consumers are charged. OCC's interest is different than that of any other party and especially different than that of Columbia whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the charges that Columbia's customers should pay are reasonable 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 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 in which the PUCO must address whether Columbia is permitted to collect charges from customers related to Columbia's capital expenditure program and energy efficiency program. OCC also has a real and substantial interest in Columbia's proposal to continue using a straight fixed variable rate design because it impacts the manner in which Columbia's residential customers are charged for natural gas service.

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), which OCC already has addressed and which OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO 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, in deciding two consolidated appeals regarding OCC's right to intervene, the Supreme Court of Ohio has confirmed that "intervention ought to be liberally allowed."⁷ In those cases, OCC explained in its motion to intervene that the proceeding could negatively impact residential consumers, and OCC established that the interests of consumers would not be represented by existing parties.⁸ Because there was no evidence disputing OCC's position or any evidence that OCC's intervention would unduly delay the proceedings, the Supreme Court of Ohio found that the PUCO could not deny OCC the right to intervene.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 PUCO should grant OCC's Motion to Intervene.

⁷ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 2006-Ohio-5853, ¶ 20 (2006).

⁸ *Id.* ¶¶ 18-20.

⁹ *Id.* ¶¶ 13-20.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 18th day of December 2017.

/s/ Kevin F. Moore

Kevin F. Moore

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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Moore, Kevin F. Mr.