

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Application of)
Columbia Gas of Ohio, Inc. for an Adjustment to) Case No. 19-0438-GA-RDR
the CEP Rider Rate.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where Columbia Gas of Ohio, Inc. ("Columbia" or the "Utility") seeks approval to increase the amount that it charges customers under its Capital Expenditure Program ("CEP") for Columbia's spending. Capital spending under Columbia's CEP program is for investment related to infrastructure expansion, improvement, or replacement; programs to install, upgrade, or replace technology systems; or programs to comply with government rules and regulations. The purpose of the CEP Rider charge is to collect the post-in-service carrying costs, incremental depreciation expense, and property tax expense directly attributable to the capital expenditure program. Columbia proposes to increase the amount it charges residential customers from \$3.51 per month to \$4.15 per month for its capital spending costs.¹ OCC is filing on behalf of the 1.3 million residential utility customers of Columbia. 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, Attachment A, Fourth Revised Sheet No. 30d; Direct Testimony of Melissa Thompson at 6.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Bryce A. McKenney
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MEMORANDUM IN SUPPORT

Customers pay for Columbia's capital spending costs through Columbia's CEP Rider. The CEP Rider collects from customers the post-in-service carrying costs, incremental depreciation expense, and property tax expense directly attributable to Columbia's capital expenditure program. Columbia's capital expenditure program is for Columbia to make investments related to infrastructure expansion, improvement, or replacement; programs to install, upgrade, or replace technology systems; or, programs to comply with government rules and regulations. The purpose of the CEP Rider charge is to collect post-in-service carrying costs, incremental depreciation expense, and property tax expense directly attributable to the capital expenditure program. Under Columbia's application, residential customers would pay \$4.15 per month beginning on September 1, 2019 for Columbia's capital spending costs.² OCC has authority under law to represent the interests of all of Columbia's 1.3 million residential utility customers under 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 consumers may be "adversely affected" by this case, especially if the

² Application, Attachment A, Fourth Revised Sheet No. 30d; Direct Testimony of Melissa Thompson at 6.

customers were unrepresented in a proceeding regarding the amounts that they pay for Columbia's capital spending on infrastructure expansion, improvement, or replacement. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

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 proceedings; and
- (4) Whether the prospective intervenor will significantly contribute to 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 capital spending charges to consumers. This interest is different from that of any other party and especially different than that of Columbia, whose advocacy includes the financial interest of stockholders.

Second, OCC's legal position will include, without limitation, advancing the position that utility rates charged to consumers should be just and reasonable.³ OCC will work to determine whether the proposed charges for Columbia's capital spending on infrastructure expansion, improvement, or replacement is just and reasonable.

³ See R.C. 4905.22 ("All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission . . .").

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 consumers, OCC has a very real and substantial interest in this case where the PUCO will review the charges that customers pay for natural gas energy efficiency programs.

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 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 consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio (“Court”) 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.⁴

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 consumers, the PUCO should grant OCC’s motion to intervene.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers’ Counsel

/s/ Bryce A. McKenney
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⁴ 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 electric transmission this 7th day of June 2019.

/s/ Bryce A. McKenney
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of McKenney, Bryce