

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of Columbia Gas of Ohio,)	
Inc.'s Letter of Notification for the)	Case No. 19-2148-GA-BLN
Marysville Connector Pipeline Project)	

**PETITION FOR LEAVE TO INTERVENE OF THE
DELAWARE COUNTY BOARD OF COMMISSIONERS**

Pursuant to R.C. 4906.08(B) and Ohio Administrative Code (OAC) 4906-2-12(C), the Delaware County Board of Commissioners (the "County"), by and through counsel, respectfully petitions the Ohio Power Siting Board (the "Board") for leave to intervene in this matter. The arguments in favor of this Petition are fully set forth in the following Memorandum in Support.

Respectfully submitted,

/s/ Aric I. Hochstettler

Aric I. Hochstettler (0081081)

Staff Attorney

Delaware County Board of Commissioners

101 North Sandusky Street

P.O. Box 8006

Delaware, Ohio 43015

740.833.2118 – *Telephone*

740.833.2099 – *Facsimile*

AHochstettler@co.delaware.oh.us

Counsel for Delaware County

Board of Commissioners

MEMORANDUM IN SUPPORT

I. BACKGROUND INFORMATION

On December 20, 2019, Columbia Gas of Ohio, Inc. (“Columbia”) filed a Letter of Notification for the Marysville Connector Pipeline Project (the “Project”), seeking accelerated review under R.C. 4906.03(F) and OAC Chapter 4906-6, on the basis that the Project is not more than five miles in length. Columbia published public notice of its filing on December 23, 2019, setting the deadline in which to file notices of intervention or petitions for leave to intervene at January 2, 2020, by operation of the accelerated deadline in OAC 4906-6-08(A)(6). Because the County is not a person entitled to individual notice and is not within the primary circulation area of the publication, the County did not learn of Columbia’s filing until nearly a week after the accelerated deadline had expired. The timing of the publication, during which the County did not hold regular meetings due to the holidays, also contributed to the failure to discover the filing until after the accelerated deadline had expired.

The County is the duly-authorized board of county commissioners for Delaware County, Ohio, a rapidly-developing community with a high demand for public utility services to support the pace of development. Given Columbia’s recent public statements regarding natural gas supply shortages and the need for additional systemic improvements, of which the Project is only a small part, the County has profound concerns about the impact the Project, and the overall systemic improvements, will have on natural gas supplies in and for Delaware County. The County’s interests are both as a consumer and as the stewards of public infrastructure and economic development of Delaware County, its businesses and institutions, and more than 200,000 residents. Although the Project is not located within Delaware County, all parties in this

matter should recognize the regional nature of the problem and the regional solutions needed to address it.

II. APPLICABLE LAW AND ARGUMENT

Since Columbia's filing seeks accelerated review, the time in which to file an ordinary petition for leave to amend is shortened from thirty days to ten days, by virtue of OAC 4906-6-08(A)(6). In extraordinary circumstances, however, the Board may grant a petition for leave to intervene filed by a person that failed to file a timely petition for leave to intervene. R.C. 4906.08(B); OAC 4906-2-12(C).

Under ordinary procedure governing intervention, pursuant to OAC 4906-2-12(B), the Board or Administrative Law Judge may consider the following factors in deciding whether there is good cause to permit intervention:

- (a) The nature and extent of the person's interests.
- (b) The extent to which the person's interest is represented by existing parties.
- (c) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding.
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

Additionally, pursuant to OAC 4906-2-12(C), when a person failed to file a timely petition for leave to intervene, a petition must contain a statement of good cause for such failure and shall be granted only upon a finding that: (1) extraordinary circumstances justify the granting of the petition; and (2) the intervenor agrees to be bound by agreements, arrangements, and other matters previously made in the proceeding. The County meets all the necessary requirements for this Board to grant leave to intervene.

Given the timing of the publication during the holidays and the relative difficulty by which the County could have been notified of the Letter of Notification within the accelerated deadline, there is good cause of the County failing to file a petition for leave to intervene within

the accelerated deadline. The Board should also take into consideration the regional supply shortage and the larger systemic improvements planned to address that shortage when deciding whether there are extraordinary circumstances to justify granting the County's petition. Taken together, the timing involved and the seriousness of the issues to be considered, constitute extraordinary circumstances. The County agrees to be bound by agreements, arrangements, and other matters previously made in the proceeding, and the Board should also consider the fact that the proceeding is still in its infancy as supporting the County's Petition.

The County also meets all the ordinary factors this Board considers in determining whether good cause exists for intervention. First, the County has an interest in this proceeding both as a customer of Columbia and as the governing body of a rapidly-developing adjacent county that is profoundly impacted by the supply shortage and overall systemic improvements of which the Project is only a part. While the County understands that neighboring partner counties have similar concerns, it is imperative that the Board consider the Project in the greater context of an overall regional solution for natural gas supply and development pressures. The County is particularly concerned that Columbia's overall proposal, and of which the Project is a part, has the potential to further endanger already short supplies of natural gas within Delaware County by redirecting supplies out of a rapidly-developing area into other underserved areas. The County's involvement is essential to ensure a balancing of all pertinent interests.

Second, competing interests are the very nature of modern economic development, wherein political subdivisions are jockeying for a limited number of investment opportunities. It would be naïve to presume that one political subdivision will adequately represent the interests of any other political subdivision. In order to ensure a proper balancing of all the various public

interests in this matter, the Board should permit intervention by all the neighboring counties to the Project.

Third, since the Project is only a component of a much larger project Columbia has planned, it is foreseeable that Columbia will file notifications for future phases of the overall systemic improvements, some of which will be within Delaware County. Permitting the County to intervene in this matter will allow for the Board to undertake a comprehensive view of the Project as it fits within the overall systemic improvements, thus contributing to a just and expeditious resolution of the issues involved in this proceeding and future proceedings.

Finally, permitting the County to intervene in this proceeding will not unduly delay the proceeding or prejudice an existing party. This proceeding is in its infancy, and construction of the Project is not expected to begin until February 2022. Additionally, the County is not seeking to intervene in this matter in an adversarial position to Columbia or any other party. The County's expertise in regional development and unique perspective in how the Project fits within a strategic vision for overall systemic improvements are both essential to a full consideration of this matter and the promotion of the public welfare, both within Delaware County and the entire region.

III. CONCLUSION

For the foregoing reasons, the County respectfully requests that this Board grant its petition for leave to intervene. A copy of the County's Resolution No. 20-75 is attached hereto and, by this reference, fully incorporated herein.

Respectfully submitted,

/s/ Aric I. Hochstettler

Aric I. Hochstettler (0081081)
Staff Attorney

Delaware County Board of Commissioners
101 North Sandusky Street
P.O. Box 8006
Delaware, Ohio 43015
740.833.2118 – *Telephone*
740.833.2099 – *Facsimile*
AHochstettler@co.delaware.oh.us

*Counsel for Delaware County
Board of Commissioners*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and accurate copy of this document shall be served on January 17, 2020, as follows:

The docketing division's e-filing system will electronically serve notice of the filing of this document on the following parties:

Cheryl A. MacDonald, Esq.
Joseph M. Clark, Esq.
Attorneys for Columbia Gas of Ohio, Inc.

Kimberly W. Bojko, Esq.
Attorney for Suburban Natural Gas Company

Thayne D. Gray, Esq.
*Attorney for Union County Board of Commissioners,
Jerome Township Board of Trustees, and
Millcreek Township Board of Trustees*

Eric C. Stewart, Esq.
Attorney for Logan County Board of Commissioners

Stephen J. Pronai, Esq.
Attorney for Madison County Board of Commissioners

Michael J. Settineri, Esq.
Attorney for Ohio Gas Access Partnership, Inc.

/s/ Aric I. Hochstettler
Aric I. Hochstettler (0081081)



Delaware County Commissioners

Jeff Benton
Barb Lewis
Gary Merrell

County Administrator
Michael Frommer

Deputy Administrator
Dawn Huston

Clerk to the Commissioners
Jennifer Walraven

RESOLUTION NO. 20-75

A RESOLUTION AUTHORIZING INTERVENTION IN THE MATTER OF COLUMBIA GAS OF OHIO, INC.'S LETTER OF NOTIFICATION FOR THE MARYSVILLE CONNECTOR PIPELINE PROJECT BEFORE THE OHIO POWER SITING BOARD, CASE NO. 19-2148-GA-BLN:

It was moved by Mr. Merrell, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Delaware County Board of Commissioners (the "Board") has learned that Columbia Gas of Ohio, Inc., filed a Letter of Notification for the Marysville Connector Pipeline Project before the Ohio Power Siting Board, Case No. 19-2148-GA-BLN, seeking construction of a natural gas pipeline in Union County, Ohio; and


WHEREAS, because the proposed project is not within Delaware County or subject to the Board's approval, the Board was not served with the Letter of Notification, notice of the Letter of Notification was not published within Delaware County, and the purported deadline in which to intervene as a matter of right expired prior to the Board discovering the Letter of Notification; and

WHEREAS, regardless of the proposed project's location, the Board finds and determines that the proposed project will have a profound impact on natural gas capacity within Delaware County and that intervention is necessary and proper to protect the interests of Delaware County and its constituents;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby authorizes the Board's Staff Attorney to seek intervention in the Matter of Columbia Gas of Ohio, Inc.'s Letter of Notification for the Marysville Connector Pipeline Project before the Ohio Power Siting Board, Case No. 19-2148-GA-BLN, and hereby authorizes the County Administrator to take all future actions on behalf of the Board, and in consultation with the Staff Attorney, with respect to this matter.

Vote on Motion Mrs. Lewis Aye Mr. Merrell Aye Mr. Benton Aye

I, Sarah Dinovo, Assistant Clerk to the Board of Commissioners hereby certify that the foregoing is a true and correct copy of a resolution of the Board of Commissioners of Delaware County duly adopted January 16, 2020 and appearing upon the official records of the said Board.



Sarah Dinovo
Assistant Clerk to the Commissioners

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/17/2020 2:31:07 PM

in

Case No(s). 19-2148-GA-BLN

Summary: Petition for Leave to Intervene of the Delaware County Board of Commissioners electronically filed by Mr. Aric I Hochstettler on behalf of Delaware County Board of Commissioners