

**BEFORE  
THE OHIO POWER SITING BOARD**

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

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**COLUMBIA GAS OF OHIO, INC.'S  
MEMORANDUM CONTRA PETITION FOR LEAVE TO INTERVENE  
OF DELAWARE COUNTY BOARD OF COMMISSIONERS**

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The rules of the Ohio Power Siting Board ("Board") concerning intervention in accelerated certificate application cases that use the Letter of Notification ("LON") format are clear. Any person wishing to intervene in a matter that has been filed with the Board under the LON accelerated application rules must do so within ten days of the date of the public notice required by Ohio Adm.Code 4906-6-08(A). The Delaware County Board of Commissioners ("Delaware County") failed to meet this deadline.

When a person fails to meet the deadline, the Board's rules provide a specific set of criteria for granting requests for intervention. Principal among these criteria, Ohio Adm.Code 4906-2-12(C) allows the Board or an Administrative Law Judge to grant an untimely petition to intervene only if extraordinary circumstances justify it. Delaware County's Petition for Leave to Intervene ("Petition") does not meet this standard, nor does Delaware County otherwise overcome its failure to timely request intervention. Delaware County's request for intervention, therefore, should be denied as untimely.

The "extraordinary circumstances" that Delaware County alleges are the timing of Columbia's Letter of Notification ("LON") and that, since Delaware County is "not a party entitled to individual service and is not within the primary circulation area of publication," it did not learn of Columbia's filing until after the deadline had passed.<sup>1</sup> Columbia has been transparent about this case. Columbia filed its pre-application letter on December 13, 2019, noting publicly that it was

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<sup>1</sup> Petition at 2.

filing the Marysville Connector Pipeline Project application on or around December 20, 2019. On December 20, Columbia filed its letter of notification in this case docket. These filings were included on the Public Utilities Commission of Ohio's Docketing Division Daily Activity Report which is publicly available. Delaware County has not alleged that Columbia has failed in any way to meet the notice requirements of the rule.

Even if Delaware County's request for intervention were timely, however, there is nothing in its Petition that warrants its intervention in this case. Although under Ohio Admin. Code 4906-2-12(A) certain governmental entities are entitled to intervene as of right, as Delaware County correctly notes, it is not entitled to do so in this proceeding, as it is not a governmental entity with jurisdiction over any location where the Project is located.<sup>2</sup> Delaware County, therefore, must establish good cause for its intervention under the same rules as would any other third party. Delaware County does not meet this standard.

Ohio Adm.Code 4906-2-12(B)(1)(a) requires the Board, when considering intervention, to take into account not only the existence of an interest in the proceeding, but the extent and nature of that interest. Delaware County articulates nothing other than a generalized interest in the proceeding that is common to every customer of Columbia. Moreover, Delaware County does not explain its claims regarding regional gas supplies, and it makes no effort to describe how this Project could affect Delaware County. Rather Delaware County appears to rely on the suggestion that the Project could affect supplies in some undefined way and its status as a governmental entity in the region served by Columbia to support its intervention. These generalized interests are not a substantial interest that rises to the level allowing an intervention in this case.

Columbia appreciates Delaware County's expression of support for regional solutions to gas supply issues, and its apparent willingness to contribute its expertise to discussion concerning regional development.<sup>3</sup> However, the County does not have an interest in this Project which warrants intervention, even if the County had met the deadline for intervention. Consequently, since Delaware County has not shown extraordinary circumstances justifying an out-of-time intervention, and because the County does not otherwise have an adequate interest

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<sup>2</sup> *Id.* at 2-3.

<sup>3</sup> *Id.* at 5.

in this Project to warrant granting intervention, Columbia requests that the Board deny the petition to intervene.

Respectfully submitted,

**COLUMBIA GAS OF OHIO, INC.**

/s/ Joseph M. Clark

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## CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via electronic mail on the 31st day of January, 2020, upon the parties listed below.

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Summary: Memorandum Contra Petition for Leave to Intervene of Delaware County Board of Commissioners electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc.