

**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.)

**COLUMBIA GAS OF OHIO INC'S MEMORANDUM CONTRA INTERVENORS'
MOTION FOR SUSPENSION OF THE ACCELERATED CERTIFICATE
APPLICATION AND REQUEST FOR EXPEDITED RULING**

I. Introduction

Pursuant to Ohio Adm.Code 4906-2-27(C), Columbia Gas of Ohio, Inc. ("Columbia") submits this memorandum contra to the March 5, 2020 Motion for Suspension of the Accelerated Certificate Application and Request for Expedited Ruling and Memorandum in Support (together, the "Motion for Suspension") filed by the Ohio Gas Access Partnership, Inc. ("OGAP"), Union County Board of County Commissioners, Logan County Board of County Commissioners, Madison County Board of County Commissioners, Millcreek Township Board of Township Trustees, and Jerome Township Board of Township Trustees (together, the "Intervenors"). As set forth in this Memorandum Contra, the Motion for Suspension fails to demonstrate good cause for the suspension of Columbia's Accelerated Certificate Application (the "Application") as required by Ohio Adm.Code 4906-6-09(A).

At its core, the Motion for Suspension is another attempt to delay and harass Columbia based on the rehashing of arguments that have already been made in this case. The Motion for Suspension offers nothing new, as admitted by OGAP on the very first page of the Memorandum in Support of the Motion for Suspension. *See Motion for Suspension* at 3. Intervenors' Motion for Suspension is without merit and is a thinly-veiled attempt by Intervenors to use the Motion for Suspension not to present any evidence of good cause for suspension of the Application for the proposed pipeline project known as the Marysville Connector Pipeline Project ("Project"), but instead to present an irrelevant, unpersuasive argument in favor of some undefined, alternative plans for the development of natural gas infrastructure in the Marysville area and surrounding region. Intervenors fail to identify any further information that the Board does not already have in its possession that would be necessary to the Board's determination on the Application.

Therefore, Columbia respectfully requests that the Board deny Intervenor's Motion for Suspension.

II. Intervenor's Fail to Demonstrate Good Cause to Suspend the Accelerated Certificate Application Under Ohio Adm.Code 4906-6-09

A. Intervenor's claim that the Project does not meet the criteria for an Accelerated Letter of Notification Application is without merit.

On December 20, 2019, Columbia filed its Letter of Notification Application for the Project pursuant to R.C. 4906.03(F)(3) and Ohio Adm.Code Chapter 4906-6. Columbia submitted the Application for accelerated review pursuant to R.C. 4906.03(F)(3) because the Project involves "[a] gas pipeline that is not more than five miles in length or is primarily needed to meet the requirements of a specific customer or specific customers." Ohio Adm.Code 4906-1-01, Appendix B, states that the Ohio Power Siting Board (the "Board") shall review, on an accelerated basis as a Letter of Notification, an application for new construction, relocation, upgrade, or replacement (except with a like facility) of a gas "pipeline or pipeline segments greater than one mile in length but not greater than five miles in length."

The Project satisfies the above criteria for accelerated review pursuant to a Letter of Notification Application. As stated in the Letter of Notification application, the Project is only 4.78 miles in length, meeting the greater than one mile and less than five mile criterion for a Letter of Notification filing. *See Letter of Notification: Marysville Connector Pipeline* at 2 (Dec. 20, 2019). Intervenor's cannot show good cause for suspension of the Application on these grounds.

Furthermore, the Application was submitted in full compliance with the Letter of Notification application requirements set forth in Ohio Adm.Code 4906-6-05. Columbia has been in communication with Board Staff regarding requests for additional information regarding the Application, and has responded to all such Board Staff inquiries. Therefore, the Project clearly satisfies the criteria for an Accelerated Letter of Notification application, and Intervenor's may not commandeer the Board's decision-making authority regarding the sufficiency of the Application that is specifically and explicitly reserved to the Board pursuant to Ohio Adm.Code 4906-6-06.

B. Intervenors' claim that the Board does not have sufficient evidence to make a determination that "need" for the Project has been demonstrated, or that the Project will serve the "public interest, convenience, and necessity," is without merit.

The Application states that "[t]he purpose and need of the Project is to increase economic development and service reliability near Marysville in Union County. The Project will provide natural gas service to new industry and residential development near the Project alignment and provide existing customers with an increased capacity for reliable natural gas service." See *Letter of Notification: Marysville Connector Pipeline* at 2 (Dec. 20, 2019).

Intervenors' Motion for Suspension claims that suspension is warranted because the need for the Project has not been demonstrated pursuant to R.C. 4906.10(A)(1), and that the Project will serve the public interest, convenience, and necessity has not been demonstrated pursuant to R.C. 4906.10(A)(6). These claims are patently unfounded, as every single one of the Intervenors, both individually and jointly in the Motion for Suspension, have explicitly admitted the need for natural gas service and the public interest in securing such service in the Marysville area and surrounding region, as follows:

From the Intervenors Jointly in the Motion for Suspension:

The Intervenors are very concerned that the Marysville Connector is not fully addressing **the need for natural gas** in Union County and other counties." *Motion for Suspension* at 4 (emphasis added).

It is in the public interest to address areas in Ohio that have natural gas constraints such as Union County, Madison County and Logan County. *Id.* (emphasis added).

From Intervenor Madison County Commissioners:

This Columbia Gas of Ohio project will bring additional natural gas supply from the New Albany Area into northwestern Franklin County and southeastern Union County, bringing **regional benefit** to Union, Madison, and Logan Counties, all of which are **currently facing significant natural gas supply issues**. *Memorandum in Support of Petition for Leave to Intervene of Madison County Commissioners* at 3 (Dec. 31, 2019) (emphasis added).

From Intervenor Logan County Board of County Commissioners:

In addition to Delaware County, Union, Madison, and Logan Counties are all **currently facing significant natural gas capacity issues**. *Petition for Leave to Intervene of the Logan County Board of County Commissioners* at 3 (Jan. 2, 2020) (emphasis added).

The Commissioners take interest in this proceeding as they have become informed that Logan County **faces significant natural gas capacity issues**. *Id.* (emphasis added).

From Intervenor OGAP:

Unfortunately, and central to OGAP's formation, **natural gas capacity limitations are impacting growth opportunities in the region**. Specifically, in Union County, natural gas capacity may be fully utilized within 5 years at the current growth rate, and **inadequate capacity has already resulted in lost opportunities** for new growth. In addition, **uncertain gas supply** in Madison County and Logan County continues to limit growth opportunities for some businesses. *Petition for Leave to Intervene and Memorandum in Support of Ohio Gas Access Partnership, Inc.* at 4 (Jan. 2, 2020) (emphasis added).

OGAP **does not dispute that additional natural gas supply capacity is needed** in western Central Ohio, and appreciates Columbia's recognition of that **fact**. *Id.* at 7 (emphasis added).

OGAP appreciate Columbia's recognition that **there are natural gas supply constraints** in western Central Ohio.... *Initial Comments of Ohio Gas Access Partnership, Inc.* at 1 (Jan. 2, 2020) (emphasis added).

Though not joining this motion, from Intervenor Delaware County Board of Commissioners:

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**. *Petition for Leave to Intervene of the Delaware County Board of Commissioners* at 2 (Jan. 17, 2020) (emphasis added).

The Board should also take into consideration **the regional supply shortage**.... *Id.* at 4 (emphasis added).

From Intervenor Board of Township Trustees, Millcreek Township, Union County, Ohio:

Whereas, the Board of Trustees has determined that Mill Creek Township, Union County, Ohio faces an **imminent shortfall in natural gas capacity** *Exhibit to Notice to Intervene filed December 31, 2019 - Resolution Approving Notice to Intervene of Board of Township Trustees, Millcreek Township, Union County, Ohio* at 1 (Dec. 31, 2019) (emphasis added).

From Intervenor Board of Township Trustees, Jerome Township, Union County, Ohio:

Whereas, the Board of Trustees has determined that Mill Creek Township, Union County, Ohio faces an **imminent shortfall in natural gas capacity** *Exhibit to Notice to Intervene filed December 31, 2019 - Resolution Approving Intervention of Board of Township Trustees, Jerome Township, Union County, Ohio* at 1 (Dec. 31, 2019) (emphasis added).

From Intervenor Board of County Commissioners, Union County, Ohio of Board of County Commissioners, Union County, Ohio:

Whereas, this Board of County Commissioners has determined that Union County faces an **imminent shortfall in natural gas capacity** *Exhibit for Notice to Intervene as Party Resolution of Board of County Commissioners, Union County, Ohio of Board of County Commissioners, Union County, Ohio* at 1 (Dec. 31, 2019) (emphasis added).

As clearly demonstrated above, Intervenor have repeatedly admitted the need for the Project and that the Project will serve the public interest, convenience, and necessity; therefore, the Intervenor's claim that a hearing is necessary to supply the Board with sufficient information to make a determination on the Application is fully without merit. As a result, Intervenor cannot establish good cause for suspension of the Application on these grounds.

C. Intervenor's other attacks on the Letter of Notification to demonstrate "good cause" for suspension of the Letter of Notification Application should be rejected.

In its Motion for Suspension, Intervenor argue that "[g]iven that the Project does not connect to the existing Columbia system on the west side of Columbus, the only way for gas to reach the Project alignment is from Marysville." See *Motion for Suspension* at 3, footnote 2 (emphasis in the original). The Project, as Columbia explained in its data

responses to Board Staff, can occur without the Columbus Northern Loop Project. *See Motion for Suspension* at Attachment A, Response to Data Request 2. Moreover, as Columbia explained, the “benefit of the Marysville Connector is diminished because without connecting the Northern Loop, the additional capacity is not available to Marysville.” *See Motion for Suspension* at Attachment A, Response to Data Request 3. Said differently, without an additional source of supply, the Marysville Connector acts as a main line extension from the existing Marysville system. With the Columbus Northern Loop Project, the Marysville Connector will be able to bring additional capacity “to” Marysville. Such a semantics battle over gas flowing to or from Marysville should not persuade the Board to suspend this project.

Next, the Intervenors argue, again, that this project should be suspended because it does not meet the criteria for an accelerated application because it is part of the Columbus Northern Loop Project, which the Intervenors surmise is over five miles in length. *See Motion for Suspension* at 8. Columbia addressed this very question from Board Staff in the data requests attached to the Motion. When asked why the Marysville Connector and the Columbus Northern Loop Project were not filed together, Columbia explained that the “Northern Loop project is not dependent on the Marysville Connector. Columbia designed the Northern Loop as a project that will bring gas from the east side of Columbus to connect to Columbia’s west side high pressure system. The Marysville Connector is not necessary to achieve this goal.” *See Motion for Suspension* at Attachment A, Response to Data Request 1. Intervenors in their motion do not counter this point or provide any evidence that the Columbus Northern Loop Project cannot move forward without the Marysville Connector.

Moreover, there is nothing in the Board’s rules that require applicants for Certificates of Environmental Compatibility and Public Need to include all related projects in a single application. In fact, the Board’s rules specifically reject Intervenors’ argument. The Board’s rules allow for the combination of projects into a standard certificate application, but do not require it:

If a project that qualifies for accelerated review is an associated facility of a major utility facility that is subject to filing a standard certificate application with the board, the projects *may* be combined into one standard certificate application.

Ohio Adm.Code 4906-3-04(A) (emphasis added). Even assuming *arguendo* that the Marysville Connector Pipeline Project will become an associated facility of the Northern Loop Project, the decision to combine the projects into a single standard certificate

application is within Columbia's discretion. The Intervenor's effort to use this argument is refuted by the plain language of the Board's rules.

Finally, in an illegitimate effort to persuade the Board to suspend its determination on Columbia's Application, Intervenor's attempt to create the impression of applicable precedent from *In the Matter of the Application of NRG Ohio Pipeline Company LLC for Approval of a Letter of Notification for the Avon Lake Gas Addition Project in Lorain County, Ohio*, Case No. 14-1717-GA-BLN, Opinion, Order, and Certificate (June 4, 2015) ("*In re NRG Ohio Pipeline Co.*"). Intervenor's misrepresent the precedent established in *In re NRG Ohio Pipeline Co.*, which is significantly distinguishable from the facts surrounding the Application.

Unlike the project at issue in *In re NRG Ohio Pipeline Co.*, the Project at issue in the Application falls under R.C. 4906.03(F)(3) because the pipeline "is not more than five miles in length," whereas NRG's project was "primarily needed to meet the requirements of a specific customer or specific customers." See *In re NRG Ohio Pipeline Co.* at 5. Multiple intervenors in the case challenged whether that was the true purpose for the pipeline project, mounting specific arguments regarding whether there would be sale or transfer of ownership of the natural gas, whether NRG would essentially be supplying natural gas to itself, etc. See *Id.* Conversely, Intervenor's in this case have not supplied any arguments, legitimate or otherwise, questioning whether the Project meets the "not more than five miles in length" criteria under R.C. 4906.03(F)(3). As such, the Board's decision from *In re NRG Ohio Pipeline Co.* does not require the Board to suspend the Application, and Intervenor's cannot demonstrate good cause for suspension of the Application on these grounds.

D. Intervenor's other extralegal attempts to demonstrate "good cause" for suspension of the Application are irrelevant to the statutory criteria for suspension and are without merit.

Intervenor's also attempt to apply various extralegal considerations to whether or not the Application should be suspended. Intervenor's claim that "[s]uspension ... in this proceeding [] will add no delay..." See *Motion for Suspension* at 3. Whether or not suspension will cause delay is not the applicable legal standard; the *only* standard by which the Board may suspend the Application is upon demonstration of "good cause." See Ohio Adm.Code 4906-6-09(A).

Intervenor's repeatedly cry wolf throughout the Motion for Suspension, as well as in OGAP's Petition for Leave to Intervene and Initial Comments, attempting to draw attention to Intervenor's opinions that "the Marysville Connector may not be the best

comprehensive, regional, long-term solution to the area's energy needs, especially if it precludes other investment from Columbia, either alone or in partnership with other entities, in natural gas supply in the area." *See Motion for Suspension* at 5. These statements are a thinly-veiled attempt by Intervenor to use the Motion for Suspension to present an irrelevant, unpersuasive argument in favor of some other undefined, alternative plan for Marysville and the surrounding region. This is yet another extralegal consideration that has no bearing on whether or not suspension is appropriate for the Application. The Board should not allow the "need" showing to be extra-legally hijacked to become a "best comprehensive, regional, long-term solutions to the area's capacity needs" standard that usurps a natural gas company's expertise and discretion in market dynamics, forecasting, and planning of its system. Intervenor claim to be "very concerned that the Marysville Connector is not fully addressing the need for natural gas in Union County and other counties." *See id.* at 4. It would be much more accurate to say that Intervenor are "very concerned" that Columbia has not capitulated to some alternative, undefined plans for natural gas infrastructure development in this area.

At its core, the Intervenor's arguments somehow claim, without evidence or support, that the Project does not meet some of the Intervenor's undefined expectations for Union County and Logan County. None of the Intervenor explain what this need is and why the Project fails to meet it. Notwithstanding this failing of the Intervenor, it is misguided and nonsensical to pretend that any project that satisfies the criteria for accelerated review should be expected to act as a comprehensive solution to an entire region's purported natural gas requirements. Intervenor's unsubstantiated preferences should not and do not dictate Columbia's business plans or project design, nor do they amount to good cause for suspension of Columbia's Application.

III. Conclusion

Intervenor's Motion for Suspension of the Application is without legitimate purpose. The repeated requests for the Board to suspend the Application and schedule a hearing are not genuine attempts to uncover any additional information about the Application, as evidenced by the fact that Intervenor's Motion for Suspension does nothing but regurgitate the same issues originally raised in Intervenor's respective Petitions for Leave to Intervene and Comments. Intervenor have already conceded that the need for the Project exists and that the Project will serve the public interest, convenience, and necessity. Therefore, Intervenor have soundly failed to identify any area of alleged deficiency in the Application that would actually be served by further fact exploration at hearing. Intervenor's requests for suspension and hearing represent nothing but legally unfounded attempts to delay the Board's determination on the Application.

Because the Project satisfies all of the relevant criteria for accelerated review pursuant to a Letter of Notification application and Intervenor's have failed to demonstrate good cause for suspension of the Application, Columbia respectfully requests that the Board deny Intervenor's Motion for Suspension.

March 10, 2020

Respectfully submitted,

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Summary: Memorandum Contra Intervenors' Motion for Suspension of the Accelerated Certificate Application and Request for Expedited Ruling electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc.