

THE OHIO POWER SITING BOARD

IN THE MATTER OF COLUMBIA GAS OF
OHIO, INC.'S LETTER OF NOTIFICATION
FOR THE MARYSVILLE CONNECTOR
PIPELINE PROJECT.

CASE NO. 19-2148-GA-BLN

ENTRY

Entered in the Journal on April 21, 2020

I. Procedural History

{¶ 1} Columbia Gas of Ohio, Inc. (Columbia) is a person as defined in R.C. 4906.01. R.C. 4906.04 provides that no person shall construct a major utility facility in the state without obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 2} R.C. 4906.03 instructs the Board to adopt rules providing for an accelerated review of a construction certificate under certain circumstances.

{¶ 3} The rules regarding an accelerated review of various applications were codified by the Board as Ohio Adm.Code Chapter 4906-6.

{¶ 4} On December 20, 2019, pursuant to Ohio Adm.Code Chapter 4906-6, Columbia filed a letter of notification application (LON) seeking Board approval, on an accelerated review timeline, for the proposed Marysville Connector Pipeline Project (Project) near Marysville, Union County, Ohio. The proposed Project will be approximately 4.78 miles in length and will provide natural gas service to new industries and residential development along the route.

{¶ 5} On December 24, 2019, Columbia filed an amendment to Appendix C, reflecting revisions to the Wetland and Waterbody Delineation Report, originally filed with the LON.

{¶ 6} On December 27, 2019, Columbia filed its notice of compliance with the service requirements under Ohio Adm.Code 4906-6-07.

{¶ 7} Pursuant to Ohio Adm.Code 4906-6-08(A), on January 6, 2020, Columbia filed its proof of publication of notice of the proposed Project made in the *Marysville Journal-Tribune* on December 23, 2019.

{¶ 8} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 9} By Entry issued on March 17, 2020, in *In re the Proper Procedures and Process for the Board's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-601-GE-UNC (*Emergency Case*), Entry (March 17, 2020) at ¶4 and in response to the Executive Order, the administrative law judge (ALJ) ordered that any time period prescribed by order, statute, or rule for the Board to act upon a pending application or other filing should be tolled during the state of emergency and also during the 14 days thereafter.

{¶ 10} Also, pursuant to Ohio Adm.Code 4906-6-11, Staff must recommend an automatic approval date for an accelerated application in its written report of investigation, unless Staff recommends suspension of the automatic approval date, and this date shall be no sooner than seven calendar days after the filing of Staff's written report of investigation and not later than ninety days after the filing date of the application. As of the date of this Entry, Staff has not filed its written report of investigation. Also, according to the ninety-day timeline, the latest automatic approval date for this application would have been on

March 20, 2020. However, as a result of the March 17, 2020 Entry in the *Emergency Case*, the automatic approval date for this proceeding is tolled until the expiration of the state of emergency declaration plus the 14 days thereafter or until the Board otherwise determines.

II. Petitions for Leave to Intervene

{¶ 11} Pursuant to Ohio Adm.Code 4906-6-08(A)(6), interested persons desiring to intervene in a case before the Board must file a motion, in accordance with Ohio Adm.Code 4906-2-12, within ten days of the date of publication in a newspaper of general circulation announcing the LON by an applicant. Since notice of Columbia's Project was published in the *Marysville Journal-Tribune* on December 23, 2019, petitions for leave to intervene were due by January 2, 2020.

{¶ 12} An ALJ may grant intervention, pursuant to Ohio Adm.Code 4906-2-12, upon a showing of good cause, which the Board has historically held is shown when the person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties. *In re Black Fork Wind LLC*, Case No. 09-546-EL-BGN, Entry (Mar. 2, 2010). Further, R.C. 4903.08(A) and Ohio Adm.Code 4906-2-12(B) provide that, in deciding whether to permit timely intervention, the following factors may be considered: the nature and extent of the prospective intervenor's interest; the extent to which the prospective intervenor's interest is represented by existing parties; the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; the legal position advanced by the prospective intervenor and its probable relation to the merits of the case; and whether the intervention by the prospective intervenor will unduly delay the proceeding or unjustly prejudice an existing party. Pursuant to Ohio Adm.Code 4906-2-12(B), the ALJ may grant an untimely filed petition to intervene only upon a showing of extraordinary circumstances and good cause, in addition to the petitioner agreeing to be bound by matters previously decided in the proceeding and providing a statement of good

cause for failing to timely file its petition.

A. Timely Filed Petitions for Leave to Intervene

{¶ 13} On December 31, 2019, pursuant to Ohio Adm.Code 4906.08(A)(3) and Ohio Adm. Code 4906-2-12(A)(2), the Board of Trustees of Millcreek Township in Union County (Millcreek Township Trustees), the Board of Trustees of Jerome Township in Union County (Jerome Township Trustees), and Union County Board of County Commissioners (Union County Board) timely filed notices of intervention in this proceeding. Each party states that part of the proposed Project will be routed in their respective jurisdiction. Consequently, each party submits that they have significant interests in this proceeding that cannot be represented by other parties. Further, the above parties also assert that their interventions will contribute to a just and expeditious resolution of the issues in this case and will not unduly delay the proceeding or unjustly prejudice any existing party. On January 7, 2020, and January 8, 2020, the Millcreek Township Trustees and the Jerome Township Trustees filed exhibits, respectively, consisting of each board's resolution ratifying and approving the notices of interventions filed on December 31, 2019.

{¶ 14} On December 31, 2019, pursuant to Ohio Adm.Code 4906.08(A)(3) and Ohio Adm. Code 4906-2-12(A)(2), the Madison County Board of County Commissioners (Madison County Board) timely filed a petition for leave to intervene in this proceeding. On January 2, 2020, pursuant to the same provisions, the Logan County Board of County Commissioners (Logan County Board) as well as the Ohio Gas Access Partnership, Inc. (OGAP) timely filed separate petitions for leave to intervene. OGAP consists of public entities, such as the city of Marysville, and private companies and associations and was formed to address and resolve natural gas supply issues in western Central Ohio, specifically to provide assistance and support to appropriate natural gas capacity expansion efforts in Franklin, Logan, Madison, Pickaway, and Union counties.

{¶ 15} The Madison County Board, the Logan County Board, and OGAP each express similar reasons as to why they have significant interests in this proceeding and state

that their interests cannot be represented by other parties. Each of the counties claim to face significant natural gas capacity issues and worry that a lack of sufficient natural gas capacity will continue to hinder growth in the counties as development is generally attracted to locations that provide the lowest amount of risk, lowest cost, and fastest speed to project completion. These counties and OGAP assert that they have an interest in the proposed Project as to whether it provides a long-term regional solution benefiting each county and the region as a whole regarding natural gas capacity issues compared to other possible solutions. The counties claim that their interests are not adequately represented by other parties because each county possesses the greatest local knowledge of growth corridors, of additional infrastructure investments, and the voice of local industry through their economic development operations. OGAP claims it will bring expertise on natural gas supply issues on a regional level compared to just a locality's perspective. These parties assert that the above reasons—their expertise regarding local and regional issues, infrastructure, and development—also demonstrate why their participation will contribute to a just and expeditious resolution of the issues and will not unduly delay the proceeding or unjustly prejudice an existing party.

{¶ 16} No memoranda contra were filed opposing the petitions filed by the above parties.

{¶ 17} The ALJ finds that the Millcreek Township Trustees, Jerome Township Trustees, Union County Board, Madison County Board, the Logan County Board, and OGAP have demonstrated good cause for their requests for intervention in this proceeding. The ALJ finds that these petitioners have a real and substantial interest in the proposed Project and their participation will contribute to the just and expeditious resolution of the issues in this matter. Accordingly, the requests for intervention filed by the above petitioners should be granted.

B. Untimely Petitions for Leave to Intervene

{¶ 18} On January 8, 2020, Suburban Natural Gas Company (Suburban) filed a

petition for leave to intervene and/or motion for waiver. Suburban contends that it has a real and substantial interest in this proceeding and that its interests are not already adequately represented by existing parties in this proceeding. Suburban submits that its intervention will contribute to a just and expeditious resolution of issues raised in this proceeding and that its intervention will neither delay this proceeding nor prejudice parties.

{¶ 19} Pursuant to R.C. 4906.08(B) and Ohio Adm.Code 4906-2-12(C), Suburban petitions the Board for leave to intervene out of time, stating that extraordinary circumstances and good cause exist. Suburban notes that, in *Ohio Consumers' Counsel v. Pub. Util. Comm.* (2006), 111 Ohio St.3d 384 (quoting *State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections* (1995), 74 Ohio St.3d 143, 144), the Supreme Court of Ohio held that statutes and rules should be “generally liberally construed in favor of intervention.” Suburban further points out that the Board has relied on the above principle in granting interventions out of time in extraordinary circumstances for good cause shown. See, e.g., *In re the Application of American Municipal Power-Ohio, Inc.*, Case No. 06-1358-EL-BGN, Entry (Dec. 4, 2007) at ¶4. Suburban argues that it was not aware of Columbia’s published notice on December 23, 2019, until the proof of publication was filed on January 6, 2020, and received through the Docketing Division on January 7, 2020. Suburban believes the accelerated procedure initiated by Columbia and the accelerated timelines implemented over the subsequent holiday, at a time when interested parties were potentially distracted with family and holiday commitments, creates an extraordinary circumstance warranting the grant of the intervention out of time. Since the petition was filed only four days out of time and the proceeding is in its early stages, Suburban asserts that no prejudice will be caused to any party in granting the petition. Suburban agrees to take the record as it exists. Last, Suburban also seeks waiver of Ohio Adm.Code 4906-6-08(A)(6), requiring interested persons to file motions to intervene within ten days of published notice, claiming good cause exists for the waiver for similar reasons as outlined above.

{¶ 20} In its petition, Suburban also offers arguments on why Columbia’s letter of notification does not qualify for accelerated review and presents its request for leave to

intervene out of time only as alternatives to its primary argument that accelerated review is not appropriate.

{¶ 21} Also in support of its petition, Suburban argues that, as a customer of Columbia, it takes supply from Columbia's pipeline system and Suburban's interests may be affected by the proposed Project, as well as a larger project called the Northern Loop Project, of which the Marysville Connector Pipeline will be part. Further, Suburban claims that it operates and supplies gas in Delaware County from Columbia's system and is concerned with supply issues in the area, including sufficient capacity to meet Suburban's needs in serving Delaware County customers. According to Suburban, Columbia's proposal to extend its current pipeline to transport gas out of Delaware County and expand its supply obligations will aggravate the current natural gas supply problem.

{¶ 22} Suburban also argues that it has a unique interest in this proceeding and cannot be adequately represented by any other party to the proceeding due to its position as a public utility and natural gas company, as well as a customer of Columbia, that provides natural gas service to residential and commercial customers in Henry, Wood, Delaware, and Marion counties. Furthermore, Suburban argues that this proceeding is in its early stages and construction of the proposed Project, along with a larger project to which the proposed Project appears to be connected, are not expected to begin until February 2022. Suburban claims it has a unique perspective and extensive experience and knowledge regarding local gas supplies and pipelines in the area. Therefore, Suburban asserts that it will not unduly delay the proceeding or prejudice an existing party and will contribute to a just and expeditious resolution of the issues involved.

{¶ 23} On January 22, 2020, Columbia filed a memorandum contra Suburban's petition for leave to intervene and/or motion for waiver. Columbia argues that Suburban failed to file its petition to intervene within the ten-day time period following newspaper publication of the notice announcing the proposed Project, as mandated by Ohio Adm.Code 4906-6-08(A)(6); therefore, its petition should be denied. Further, Columbia argues that

Suburban failed to demonstrate extraordinary circumstances to garner intervention. Columbia points out that, in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, the Supreme Court of Ohio granted intervention to a timely request and that the liberal policy prescribed by the Supreme Court of Ohio does not extend to out-of-time requests. Therefore, Columbia asserts that granting the petition would unjustifiably excuse noncompliance with procedural rules. Columbia also states that the issue in *In re the Application of American Municipal Power-Ohio, Inc.*, Case No. 06-1358-EL-BGN, Entry (Dec. 4, 2007) at ¶4 centered on whether it was permissible to grant intervention to a party who failed to comply with the intervention deadline set by the ALJ when that deadline was after the statutory deadline. Columbia states that the ALJ concluded that third parties could rely on procedural orders in the case, but, here, no procedural orders have been issued, so Suburban should have complied with the rule-mandated deadline. Columbia argues that Suburban's claim that the accelerated timelines implemented over the winter holidays created an extraordinary circumstance is insufficient. Columbia states that it was transparent in its December 13, 2019 pre-application letter about the upcoming application; that a sophisticated party like Suburban should have been aware of this case, especially since this case is reported in the Commission's Docketing Division Daily Activity Report; that, since Suburban knew about the January 6, 2020 proof of publication filing, it must have been following the application docket; that six other potential intervenors were able to file timely petitions; and filing applications in December with the Board is not extraordinary, especially since multiple other accelerated applications were filed in December. Finally, Columbia argues that Suburban's request for waiver of Ohio Adm.Code 4906-6-08(A)(6) should be denied because the request is a tactic to circumvent the established procedures related to intervention and the specific criteria for granting untimely intervention requests.

{¶ 24} Columbia also argues that Suburban fails to meet the threshold requirements for intervention under Ohio Adm.Code 4906-2-12. Columbia states that Suburban's claim is staked merely on the fact that it is a customer of Columbia who serves customers in Delaware, Henry, Wood, and Marion counties. Columbia asserts that this interest is not

sufficient, considering this case relates to a pipeline in Union County, leaving Suburban with a generalized interest common to every Columbia customer. Further, Columbia claims Suburban's interests rest on an argument that this proceeding is related to a larger planned pipeline project, yet-to-be filed, which will affect Suburban, but Suburban does not claim that the proposed Project, itself, will have a meaningful impact on it. Columbia also asserts that Suburban's primary argument, the proposed Project is part of larger project and should not be considered as an accelerated application, demonstrates that Suburban plans to cause undue delay to these specific proceedings.

{¶ 25} On January 29, 2020, Suburban filed its reply brief in support of its petition to intervene and/or motion for waiver, within which Suburban states that extraordinary circumstances exist to be granted leave for good cause shown. Suburban states that it did not receive actual notice of the Project and that it is outside of the general circulation of the newspaper that printed the notice. Consequently, Suburban states that neither it nor its undersigned counsel knew that Columbia's application was on an accelerated basis and had an accelerated intervention deadline until after the time to intervene had already lapsed. As a result, Suburban immediately moved to intervene as soon as its recently retained undersigned counsel learned of the deadline. Suburban argues that all but two of the six intervenors who filed timely intervention petitions received actual notice of the Project pursuant to R.C. 4906.06(B). Suburban surmises that the other two parties, OGAP and the Logan County Board, received notice through OGAP's internal channels since some members of OGAP received actual notice and the Logan County Board is a member of OGAP. Also, Suburban claims that the Supreme Court decision in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, concerning intervention being liberally construed in favor of intervention, has been cited in numerous cases, such as *In re the Application of PRO-TEC Coating Company, LLC*, Case No. 19-124-EL-AEC, Finding and Order (Feb. 27, 2019) at ¶10, where a party was granted intervention after the initial intervention filing deadline. Finally, Suburban argues that the decision in *In re the Application of American Municipal Power-Ohio, Inc.*, Case No. 06-1358-EL-BGN, Entry (Dec. 4, 2007) at ¶4 is prescient because, even in the

context of a standard, 30-day period for intervention, the Board exercised its discretion to grant an out-of-time intervenor's petition, making it even more reasonable to grant intervention in the context of a 10-day accelerated intervention period, particularly whose ten days include end of year holidays.

{¶ 26} Suburban also reiterates that it has a substantial interest in the proceeding, stating that it needs to ensure it has sufficient supply from Columbia to adequately serve its customers and meet obligations, something Suburban says is in doubt considering both that Columbia said no additional capacity was available when Suburban requested additional supply and that Columbia recently expressed concern regarding natural gas supply shortages. Suburban further claims that the Commission has granted intervention to utility customers. Also, Suburban believes Columbia's claim that Suburban will unduly delay the proceeding if Suburban asserts the proposed Project is part of a larger project is without merit because that issue appears likely to be raised anyway, considering other parties, such as OGAP and the Madison County Board, have raised similar issues in their filings.

{¶ 27} On January 17, 2020, the Delaware County Board of Commissioners (Delaware County Board) filed a petition for leave to intervene. In the petition, the Delaware County Board explains that, pursuant to Ohio Adm.Code 4906-2-12(C), it agrees to be bound by any prior arrangements in this proceeding and that extraordinary circumstances justify granting its untimely petition. The Delaware County Board argues that, given the timing of the newspaper publication of the notice and the relative difficulty by which the Delaware County Board could have been notified within the accelerated deadline, good cause exists for failing to file a timely petition. Furthermore, the Delaware County Board states that the Board, when deciding whether to grant this petition, should also consider the regional supply shortage and the larger systemic improvements planned to address that shortage.

{¶ 28} Concerning the ordinary factors assessing intervention, the Delaware County Board expressed similar concerns as the other county petitioners. The Delaware County Board states that it has a substantial interest in the proceeding because it is concerned that

Columbia's overall proposal, of which the proposed 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 Delaware County Board further states that no other party adequately represents its interests because each political subdivision competes for a limited number of investment opportunities, so allowing intervention would ensure a proper balancing of all the various public interests in the matter. Also, the Delaware County Board believes the proposed Project is a part of a larger project yet to be filed and asserts that its participation will give the Board the ability to undertake a comprehensive view of the Project and how the Project fits within the overall systemic improvements, therefore contributing to a just and expeditious resolution of the issues. Finally, the Delaware County Board states that it will not unduly delay the proceeding or prejudice an existing party because this proceeding is still in its infancy and the Delaware County Board offers expertise regarding local and regional development and a unique perspective on how the Project fits in the overall systemic improvements to be proposed by Columbia.

{¶ 29} On January 31, 2020, Columbia filed its memorandum contra Delaware County Board's petition for leave to intervene. Columbia argues that the Delaware County Board failed to file its petition for leave to intervene within the ten-day time period following newspaper publication of the notice announcing the proposed Project, as mandated by Ohio Adm.Code 4906-6-08(A)(6); Columbia states that it was transparent in its December 13, 2019 pre-application letter about the upcoming application; that it filed its LON on December 20, 2019; that these filings were included in the publicly available Docketing Division Daily Activity Report issued by the Commission; and that Columbia successfully met all required notice requirements. Columbia also argues that intervention is not warranted for the Delaware County Board under the ordinary intervention factors. Columbia explains that the Delaware County Board articulates only generalized interest in the proceeding that is common to every customer of Columbia and that Delaware County Board's claims regarding regional gas supplies are too vague to lend merit.

{¶ 30} On February 7, 2020, Delaware County Board filed its reply in support of its petition for leave to intervene. Delaware County Board states that, despite the proposed Project's link to the larger yet-to-be-filed project that is partly located in Delaware County, the proposed Project, itself, is in such proximity to Delaware County that there is a nexus to its infrastructure and economic development planning efforts. Delaware County Board adds that, despite this nexus, Columbia made no attempt to notify the Delaware County Board of the Project and that it is unreasonable to require the level of due diligence needed to monitor the Commission's docketing system for a filing it did not know about, especially requiring such diligence during an accelerated timeline which included four public holidays. Delaware County Board also reiterates that it has a substantial interest in this proceeding, claiming that the Project is less than five miles from Delaware County and this area of Delaware County is one of its targeted growth corridors that will require more reliable supplies of natural gas. Delaware County Board states that no other party can adequately represent its interests because, as the steward of county taxpayer dollars and as the primary economic development entity in Delaware County, it is responsible for the investment of hundreds of millions of dollars in infrastructure to support Delaware County's rapid development and has an obligation to ensure that a utility project within its immediate vicinity is planned in accordance with its master plans.

{¶ 31} Upon review of the above filings from Suburban, the Delaware County Board, and Columbia, the ALJ finds that Suburban and the Delaware County Board have failed to demonstrate extraordinary circumstances and good cause, as contemplated by Ohio Adm.Code 4906-2-12(C), for filing untimely petitions for leave to intervene. First, Columbia appears to have satisfied notice requirements under Ohio Adm.Code 4906-6-07 and provided public notice in accordance with Ohio Adm.Code 4906-6-08. Columbia filed its pre-application notification letter on December 13, 2019, meaning a publicly viewable docket for this Project was open nearly two weeks before the Christmas holiday, and the letter indicated that the LON application would likely be filed on December 20, 2019, which it ultimately was. Notice of the Project was published on December 23, 2019, causing

petitions for leave to intervene to be due on January 2, 2020. Suburban filed its petition on January 6, 2020, and the Delaware County Board filed its petition on January 17, 2020. Outside of Suburban's claim that the Project should not qualify for the accelerated LON format, the petitioners do not assert that Columbia failed to follow the required notice requirements. Petitioners partly argue that filing a timely petition to intervene was difficult in the 10-day timeframe due to end of year holidays. In fact, Suburban seems to imply that Columbia contrived an end of year accelerated review filing with the hopes that the ensuing public holidays would hinder interested parties from exercising their due diligence in monitoring filings with the Board; however, these lines of argument are not well-taken. As Columbia points out, it is not uncommon for parties to make end of year filings with the Board, triggering filing deadlines for interested parties which include intervening holidays. See, e.g., *In re the Letter of Notification Application of The East Ohio Gas Company*, Case No. 19-2156-GA-BLN, Letter of Notification (Dec. 20, 2019); *In re the Letter of Notification Application by Columbia Gas of Ohio*, Case No. 17-2497-GA-BLN, Letter of Notification (Dec. 21, 2017).

{¶ 32} In further support of their contention that it was difficult to file during the 10-day timeframe, Suburban and the Delaware County Board assert that they had difficulty receiving notice of the Project because they are outside the *Marysville Journal-Tribune's* primary area of circulation. This fact does not absolve them of following the rule-prescribed deadline, however. Further, two intervenors who were not served with a copy of the LON filed timely petitions. Suburban's explanation on why those petitioners timely filed is based on speculation, claiming that these parties heard about the filing through other members of OGAP. Even if those two petitioners did initially hear about the Project through internal OGAP channels, it does not absolve Suburban and the Delaware County Board from following the rule-prescribed deadline.

{¶ 33} Both petitioners believe the Supreme Court of Ohio's holding in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, concerning intervention being liberally construed in favor of intervention, should be applied regarding untimely petitions in this case. As Columbia mentions, this policy does not necessarily apply in circumstances where parties

fail to file timely petition for leave to intervene. Suburban points to *In re the Application of PRO-TEC Coating Company, LLC*, Case No. 19-124-EL-AEC, Finding and Order (Feb. 27, 2019) at ¶10, as a case where the Supreme Court of Ohio's policy was offered as rationale for granting the Ohio Consumers' Counsel's one-day late intervention filing. However, first, the instant situation is distinguishable in that Suburban filed four days late and the Delaware County Board filed 15 days late. Suburban also points to *In re the Application of American Municipal Power-Ohio, Inc.*, Case No. 06-1358-EL-BGN, Entry (Dec. 4, 2007) at ¶4 as being prescient because, in the context of a standard, 30-day period for intervention, the Board exercised its discretion to grant an out-of-time intervenor's petition. However, Columbia's interpretation of circumstances in the case, with the issue centering on whether it was permissible to grant intervention to a party who failed to comply with the intervention deadline set by the ALJ when that deadline was after the statutory deadline, more accurately interprets the import of the decision, making Suburban's argument unpersuasive considering that issue is not under examination here.

{¶ 34} Both petitioners express concerns over a possible natural gas supply shortage and the effects this Project and a yet-to-be-filed project will have on that supply shortage. The decision to deny Suburban's and the Delaware County Board's petitions to intervene due to their untimely filing has no impact on their ability to petition to intervene in the larger project once it is filed. Specific to this case, the ALJ does not find that extraordinary circumstances and good cause have been demonstrated by Suburban and the Delaware County Board, and, therefore, their untimely petitions for leave to intervene are denied.

{¶ 35} Finally, included with its petition for leave to intervene, Suburban requested waiver of Ohio Adm.Code 4906-6-08(A)(6), specifically for waiver of the 10-day period for filing petitions to intervene. Offering similar reasons as to why a petition for leave to intervene should be granted, Suburban claims that, if its petition is denied, a limited waiver is appropriate. For the same reasons articulated above concerning Suburban's petition, the ALJ finds that a limited waiver of Ohio Adm.Code 4906-6-08(A)(6) is inappropriate in this proceeding and, therefore, Suburban's motion is denied.

III. Prehearing Conference

{¶ 36} Pursuant to Ohio Adm.Code 4906-2-25, the ALJ finds it appropriate to schedule a prehearing conference for May 7, 2020, at 10:00 a.m. Due to the declared state of emergency, this prehearing conference will either be telephonic or by video and not in-person at the Commission's offices. Parties will be given specific directions on how to attend the prehearing conference a reasonable time prior to May 7, 2020.

IV. Order

{¶ 37} It is, therefore,

{¶ 38} ORDERED, That the petitions for leave to intervene filed by the Millcreek Township Trustees, the Jerome Township Trustees, the Union County Board, the Madison County Board, the Logan County Board, and OGAP be granted. It is, further,

{¶ 39} ORDERED, That the untimely petitions for leave to intervene filed by the Delaware County Board and Suburban be denied and Suburban's motion for waiver of Ohio Adm.Code 4906-6-08(A)(6) be denied. It is, further,

{¶ 40} ORDERED, That the parties attend a prehearing conference on May 7, 2020, at 10:00 a.m. in accordance with Paragraph 36. It is, further,

{¶ 41} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE OHIO POWER SITING BOARD

/s/ Matthew J. Sandor

By: Matthew J. Sandor
Administrative Law Judge

GAP/kck

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

Summary: Administrative Law Judge Entry Petitions for leave to intervene filed by Millcreek Township Trustees, Jerome Township Trustees, Union County Board, Madison County Board, Logan County Board and OGAP are granted; the untimely petitions for leave to intervene filed by Delaware County Board is denied and Suburban's motion for waiver of Ohio Adm. Code 4906-6-08(A)(6) is denied; the parties are ordered to attend a pre-hearing conference on 5.7.20 at 10:00 a.m. by phone or video. electronically filed by Kelli C King on behalf of Matthew Sandor, Administrative Law Judge, Ohio Power Siting Board