

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE JOINT  
APPLICATION OF NORTH COAST GAS  
TRANSMISSION LLC AND COLUMBIA  
GAS OF OHIO, INC. FOR APPROVAL OF  
AMENDMENTS TO TWO NATURAL GAS  
TRANSPORTATION SERVICE  
AGREEMENTS.

CASE NO. 21-743-PL-AEC

## FINDING AND ORDER

Entered in the Journal on August 25, 2021

### I. SUMMARY

{¶ 1} The Commission approves the joint application of North Coast Gas Transmission LLC and Columbia Gas of Ohio, Inc. for authority to amend two reasonable arrangements for the transportation of natural gas.

### II. DISCUSSION

{¶ 2} North Coast Gas Transmission LLC (North Coast) is a pipeline company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} Columbia Gas of Ohio, Inc. (Columbia) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 4} R.C. 4905.31 authorizes the Commission to approve schedules or reasonable arrangements between a public utility and another public utility or one or more of its customers. The statute provides that every such schedule or reasonable arrangement shall be under the supervision and regulation of the Commission, and is subject to change, alteration, or modification by the Commission.

{¶ 5} On June 21, 2021, North Coast and Columbia filed a joint application, pursuant to R.C. 4905.31, seeking approval of amendments to two reasonable

arrangements under which North Coast provides natural gas transportation service within the state of Ohio to Columbia.

{¶ 6} On August 10, 2021, Staff filed its review and recommendation in response to the joint application filed by North Coast and Columbia.

#### *A. Procedural Issue*

{¶ 7} On June 21, 2021, North Coast filed a motion for protective order, seeking to protect the pricing and volume information contained in Attachments A and C to the joint application, as filed confidentially on June 22, 2021. Specifically, North Coast asserts that the pricing and volume information found in Attachments A and C constitutes confidential, sensitive, and proprietary trade secret information, as defined in R.C. 1333.61(D), and as recognized by Ohio Adm.Code 4901-1-24. North Coast also notes that Columbia supports the motion. No memoranda contra the motion for protective order were filed.

{¶ 8} R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be public, except as provided in R.C. 149.43, and as consistent with the purposes of Title 49 of the Revised Code. R.C. 149.43 specifies that the term “public records” excludes information that, under state or federal law, may not be released. The Ohio Supreme Court has clarified that the “state or federal law” exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).

{¶ 9} Similarly, Ohio Adm.Code 4901-1-24 allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, “to the extent that state or federal law prohibits release of the information, including where the information is deemed \* \* \* to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code.”

{¶ 10} Ohio law defines a trade secret as “information \* \* \* that satisfies both of the following: (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” R.C. 1333.61(D).

{¶ 11} The Commission has reviewed the information that is the subject of North Coast’s motion for protective order, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to R.C. 1333.61(D), as well as the six-factor test set forth by the Ohio Supreme Court,<sup>1</sup> the Commission finds that the pricing and volume information contained in Attachments A and C to the joint application constitutes trade secret information. Its release is, therefore, prohibited under state law. The Commission also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Therefore, the Commission finds that North Coast’s motion for protective order with respect to the confidential information contained in Attachments A and C is reasonable and should be granted.

{¶ 12} Ohio Adm.Code 4901-1-24(F) provides that, unless otherwise ordered, protective orders issued pursuant to Ohio Adm.Code 4901-1-24(D) automatically expire after 24 months. Therefore, confidential treatment shall be afforded for a period ending 24 months from the date of this Finding and Order. Until that date, the Commission’s docketing division should maintain, under seal, the information filed confidentially by North Coast on June 22, 2021.

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<sup>1</sup> See *State ex rel. the Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525, 687 N.E.2d 661 (1997).

{¶ 13} Ohio Adm.Code 4901-1-24(F) requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If North Coast wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to North Coast.

***B. Consideration of the Application***

{¶ 14} As noted above, the joint application requests approval of amendments to two reasonable arrangements for natural gas transportation service provided by North Coast to Columbia. First, North Coast and Columbia request the Commission's approval of a third amendment to a natural gas transportation service agreement known as the Columbia Hinckley Agreement, which enables North Coast to transport natural gas for Columbia to specified delivery points in northern Ohio. North Coast and Columbia note that the Commission initially approved this agreement in Case No. 08-1164-PL-AEC. *In re North Coast Gas Transmission LLC*, Case No. 08-1164-PL-AEC, Entry (Oct. 29, 2008). North Coast and Columbia seek approval of amendments that would revise Section 9.12 regarding termination of the agreement and revise Exhibit B with respect to the secondary delivery points and volumes.

{¶ 15} Additionally, North Coast and Columbia request the Commission's approval of a second amendment to a natural gas transportation service agreement known as the Columbia Findlay Agreement, whereby Columbia utilizes North Coast's pipeline for the transportation of natural gas within Ohio. This agreement was approved by the Commission in Case No. 16-2248-PL-AEC. *In re North Coast Gas Transmission LLC*, Case No. 16-2248-PL-AEC, Finding and Order (Mar. 22, 2017). According to North Coast and Columbia, the proposed amendments would revise Section 3.1 related to continuation of the agreement beyond the primary term, remove Section 9.11 regarding termination of the agreement, and revise Exhibit B with respect to the service periods and the volumes.

{¶ 16} In the joint application, North Coast and Columbia assert that the amendments to the natural gas transportation service agreements are in the public interest and should be approved pursuant to R.C. 4905.31.

{¶ 17} In its review and recommendation, Staff notes that it reviewed the joint application filed by North Coast and Columbia. Following its review, Staff concludes that the joint application is reasonable and should be approved.

{¶ 18} Upon review of the joint application filed by North Coast and Columbia, as well as Staff's review and recommendation, the Commission finds that the joint application does not appear to be unjust or unreasonable and should, therefore, be approved. Accordingly, we find that the proposed amendments to the natural gas transportation service agreements should be approved pursuant to R.C. 4905.31.

### III. ORDER

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That the joint application filed by North Coast and Columbia be approved. It is, further,

{¶ 21} ORDERED, That the motion for protective order filed by North Coast on June 21, 2021, be granted. It is, further,

{¶ 22} ORDERED, That the Commission's docketing division maintain, under seal, the confidential information filed by North Coast on June 22, 2021, for a period ending 24 months from the date of this Finding and Order. It is, further,

{¶ 23} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 24} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

SJP/mef

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Summary: Finding & Order approving the joint application of North Coast Gas Transmission LLC and Columbia Gas of Ohio, Inc. for authority to amend two reasonable arrangements for the transportation of natural gas. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio