

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
North Coast Gas Transmission, LLC for)
Authority to Become a Natural Gas) Case No. 21-1029-GA-ATA
Company in Ohio, Replace its Existing)
P.U.C.O. Tariff No. 2, and Move the)
PUCO Rolls as a Regulated Natural Gas)
Company.)

**CONSUMER PROTECTION REPLY COMMENTS
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

North Coast's Application to convert from a pipeline to a natural gas utility should be denied, at least with regard to its proposal for serving residential consumers. North Coast has failed to show its Application¹ provides adequate consumer safeguards and protection. North Coast also failed to show that its application is just and reasonable as required by Ohio law.² Comments were filed by the Office of the Ohio Consumers' Counsel ("OCC"),³ The East Ohio Gas Company d/b/a Dominion Energy Ohio ("Dominion")⁴ and Columbia Gas of Ohio ("Columbia").⁵

North Coast's proposal for individually contracting with consumers,⁶ instead of using a tariffed regulated Gas Cost Recovery service,⁷ would leave consumers

¹ North Coast Application (October 4, 2021).

² R.C. 4905.22.

³ Consumer Protection Comments by Office of the Ohio Consumers' Counsel (January 4, 2022).

⁴ Comments of the East Ohio Gas Company d/b/a Dominion Energy Ohio (January 4, 2022).

⁵ Initial Comments of Columbia Gas of Ohio, Inc. (January 4, 2022).

⁶ Application at 5.

⁷ *Id.*

unprotected by either PUCO regulation or effective competition (such as a standard service offer). North Coast's Application does not incorporate proper principles and practices of utility regulation. It would have the PUCO stand aside while consumers are exposed to the monopoly power of a new utility, North Coast.

Accordingly, North Coast's application is inadequate. Before the PUCO could authorize North Coast to become a natural gas utility, North Coast must conform with regulatory norms (principles and practices) for consumer protection under law, rule and precedent, including a fair and thorough process of reviewing the Application. North Coast would need to prove what it has yet to show – that it is in the public interest for it to be granted the status of public utility.

In addition, OCC remains concerned that North Coast wants to serve retail consumers with only an Application for Tariff Approval (“ATA”) filing. North Coast should make a more substantial filing indicating its consumer protections for its rate and terms applicable to distribution service and gas commodity service, among other things. The PUCO should not permit North Coast to conduct utility service through individual contracts for natural gas instead of a Gas Cost Recovery service under tariff.

II. RECOMMENDATIONS

North Coast's Application is deficient and not in the public interest and therefore should be denied.

Dominion commented that North Coast's Application includes tariffs that are at odds with Ohio law.⁸ Dominion is correct.

⁸ See, Dominion Comments at 2. See also, R.C. 4905.22; *Industrial Gas Company v. Pub. Util. Comm.*, 135 Ohio St. 408, 413, 21 N.E.2d 166 (1939).

North Coast's tariffs do not acknowledge that it has a legal duty to serve. Rather its tariffs allow the company to serve select customers under private contract at the company's discretion.⁹ These issues raised by Dominion show that North Coast's Application to become a gas distribution utility is not in the public interest.

It is generally recognized that advancing the public interest is the main objective of public utility regulation. For example, Charles F. Phillips, Jr. noted that "The public interest theory of regulation – the oldest and the one that is more often implied than articulated – holds that regulation is undertaken to protect the consumers from the abuses of market imperfections (or, more broadly, is established for "public interest-related objectives").¹⁰ James C. Bonbright also observed that "The goals or rationales of regulation in the public interest may be economic (to correct market failures), social (to correct social failures) and political (to correct political failures) in nature."¹¹

Consideration of the public interest should be an implicit standard for every decision made by the PUCO. In addition, the Ohio Supreme Court has decided that the PUCO has the authority and the obligation to use this public interest consideration regarding the provision of natural gas service. Specifically, the "power to regulate and supervise the functions of public utilities" is "lodged with the public utilities commission in the public interest."¹²

⁹ Dominion Comments at 4.

¹⁰ Charles F. Phillips, Jr., *The Regulation of Public Utilities Theory and Practice* (1988) at 174, Public Utilities Reports, Inc. Arlington, Virginia.

¹¹ James C. Bonbright, Albert L. Danielsen and David R. Kamerschen, *Principles of Public Utility Rates* (1988) at 33, Public Utilities Reports, Inc. Arlington, Virginia.

¹² *Ohio Midland Light & Power Co. v. Columbus & S. Ohio Elec. Co.* 123 N.E.2d 675 (1954).

In reflecting this consideration of public interest, the PUCO in the past has used the following standards in deciding if an entity should be allowed to be a natural gas company: whether the applicant has the managerial, technical, and financial capability to provide natural gas service and whether there are reasonable financial assurances sufficient to protect consumers.¹³ These standards help ensure that consumers will receive adequate, reliable and reasonably priced natural gas service¹⁴ at just and reasonable rates.¹⁵

It is not in the public interest for the PUCO to allow North Coast to enter into individual contracts with individual residential consumers for gas service or supply. If the rate will be determined in individual contracts with individual residential consumers as the application suggests, then residential consumers will be at a severe disadvantage in the negotiations for such contracts.

In addition, North Coast's proposed rates and charges for both base gas distribution service and commodity gas service are higher than other utilities in the state. For example, Columbia Gas of Ohio's ("Columbia") current residential base distribution charge is \$16.75 per consumer account per month.¹⁶ And Dominion East Ohio Gas' base distribution charge is \$17.58 per consumer delivery point per month.¹⁷ This compares to

¹³ R.C. 4905.03; *See e.g., In re Generation Pipeline LLC*, Case No. 15-1104-GA-ACE, Finding and Order (September 23, 2015); *In re Power Energy Distribution, Inc.*, Case No. 97-746-GA-ATA, Opinion and Order (September 24, 1998) as cited in *One Source Energy, LLC for Authority to Operate as an Ohio Natural Gas Company*, Second Finding and Order, Case No. 16-1181-GA-ACE (July 31, 2019).

¹⁴ R.C. 4929.02(A)(1).

¹⁵ R.C. 4905.22.

¹⁶ Ninth Revised Sheet No. 16 Columbia Gas of Ohio, Inc. Rules and Regulations Governing the Distribution and Sale of Gas – Small General Sales Rate.

¹⁷ Dominion Sixth Revised Sheet No. GSS-R 1 General Sales Service - Residential (GSS-R), at 3.2.

North Coast's proposed residential customer charge of \$20.00 per month.¹⁸ Similarly, North Coast's proposed gas commodity residential rate of \$7.00 per Mcf¹⁹ is considerably higher than Columbia's current SCO rate of \$5.7240 per Mcf²⁰ or Dominion's current SCO rate of \$4.174/Mcf.²¹ And as OCC noted in its initial Comments, it is unclear how frequently North Coast's commodity gas costs will change (if at all) or if the commodity costs will be negotiated with individual customers.

And OCC remains concerned that North Coast is attempting to serve end use residential consumers under a simple ATA filing. If the PUCO is to approve North Coast's application, then it should require North Coast to, among other things, provide gas service (commodity and distribution) to residential consumers through a more substantial filing that includes an application and more thorough supporting documentation for the tariffs and charges contained therein. That tariff would be subject to approval by the PUCO with a clear establishment of North Coast's obligation to serve consumers. As Dominion's comments reflect,²² the PUCO should require that North Coast's gas supply for residential consumers be supplied via the GCR mechanism, similar to the processes used by other small gas utilities in the state.

¹⁸ North Coast's proposed Rules and Regulations Governing the Distribution and Supply of Natural Gas, Original Sheet No. 37 – Section VI. Rate Schedules – Residential Gas Service.

¹⁹ *Id.*

²⁰

<https://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=NaturalGas&TerritoryId=8&RateCode=1>.

²¹

<https://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=NaturalGas&TerritoryId=1&RateCode=1>.

²² Dominion Comments at 1-4.

As discussed in OCC's Initial Comments, North Coast provides no rationale for exempting itself from supplying natural gas service to consumers through a GCR. North Coast provides no supporting documentation for the tariffs it intends to charge consumers and there is no demonstration that they are just and reasonable. To promote public interest, North Coast should demonstrate that its proposed transition to gas utility status should benefit consumers. And, specifically, North Coast should show that the gas supplied and service rendered to residential consumers would be provided at just and reasonable rates²³ and include the consumer protections enjoyed by other natural gas consumers in the state.

It therefore is unjust and unreasonable and not in the public interest to allow North Coast to convert to a natural gas company serving end-use consumers with only a perfunctory review by the PUCO.

III. CONCLUSION

The PUCO should adopt OCC's consumer protection recommendations in our Comments and Reply Comments if it allows North Coast to convert to a natural gas utility serving residential consumers. The PUCO should not permit North Coast to avoid the statutory standard for a gas cost recovery rate by instead entering into individual contracts with individual residential consumers for gas service or supply. The PUCO should require North Coast to provide gas service to residential consumers through a tariff approved by the PUCO with a clear establishment of North Coast's obligation to serve consumers. And the PUCO should require that North Coast's natural gas supply for

²³ R.C. 4905.22.

residential consumers should be provided via the GCR mechanism, similar to the processes used by other small gas utilities in the state.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic transmission, this 18th day of January 2022.

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Summary: Comments Consumer Protection Reply Comments by Office of the Ohio
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