

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Capital Expenditure)
Program Rider of Columbia Gas of Ohio,) Case No. 22-621-GA-RDR
Inc.)

**MOTION TO INTERVENE
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ where Columbia Gas of Ohio, Inc. ("Columbia") seeks to charge consumers more than \$158 million² under its Capital Expenditure Program ("CEP") Rider for deferred expenses and capital investments outside of a base rate case. OCC is filing on behalf of the 1.4 million residential utility consumers of Columbia. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion are further set forth in the attached memorandum in support.

¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

² See Application at Schedule CEP-1.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ William J. Michael
William J. Michael (0070921)
Counsel of Record
Ambrosia E. Wilson (0096598)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, Suite 700
Columbus, Ohio 43215

Telephone [Michael]: (614) 466-1291

Telephone [Wilson]: (614) 466-1292

william.michael@occ.ohio.gov

ambrosia.wilson@occ.ohio.gov

(willing to accept service by email)

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MEMORANDUM IN SUPPORT

Columbia seeks to increase charges on each of its 1.4 million residential consumers to \$7.33 per month under a Capital Expenditure Program Rider.³ These increased charges relate to investments that Columbia made in 2021 and are in addition to the rates that consumers currently pay for natural gas utility service from Columbia. Blue Ridge Consulting has been engaged by the PUCO to review the prudence and reasonableness of Columbia’s 2021 investments.⁴ OCC has authority under law to represent the interests of all the residential utility consumers of Columbia, under R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding where Columbia seeks to charge them more than \$158 million under the Capital Expenditure Program Rider. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

³ Application at A.

⁴ February 23, 2022 Entry.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential consumers of Columbia involving proposed charges for Columbia's capital investments. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential consumers will include, among other things, advancing the position that rates should be no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. OCC's position is therefore directly related to the merits of this case, which is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC will obtain and develop information that

the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case where Columbia seeks to charge every residential customer a flat charge of \$7.33 per month under its Capital Expenditure Program Rider.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B), which OCC already has addressed, and which OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio (“Court”) confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.⁵

⁵ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ William J. Michael
William J. Michael (0070921)
Counsel of Record
Ambrosia E. Wilson (0096598)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215
Telephone [Michael]: (614) 466-1291
Telephone [Wilson]: (614) 466-1292
william.michael@occ.ohio.gov
ambrosia.wilson@occ.ohio.gov
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below via electronic transmission, this 7th day of April 2022.

/s/ William J. Michael
William J. Michael
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

SERVICE LIST

jodi.bair@OhioAGO.gov
sarah.feldkamp@OhioAGO.gov

johnryan@nisource.com

Attorney Examiner:

greta.see@puco.ohio.gov

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

4/7/2022 10:25:35 AM

in

Case No(s). 22-0621-GA-RDR

Summary: Motion Motion to Intervene by Office of the Ohio Consumers' Counsel
electronically filed by Mrs. Tracy J. Greene on behalf of Michael, William J.