

**BEFORE
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

**RESPONSE TO SUPPLEMENTAL MEMORANDUM OF UNION COUNTY
COMMISSIONERS, UNION COUNTY, OHIO, REQUESTING DEFERRAL OF
ACTION ON COLUMBIA GAS OF OHIO, INC.'S MOTION FOR WAIVER**

Patrick E. Bailey, Whitney Bailey, Don Bailey, Jr., Successor Trustee of the Arno Renner Trust Dated April 24, 1997, and Charles Peter Renner (hereinafter referred to collectively as "Intervenors") submit to the Ohio Power Siting Board ("OPSB") their Response to Supplemental Memorandum of Union County Commissioners, Union County, Ohio ("Commissioners"), Requesting Deferral of Action on Columbia Gas of Ohio, Inc.'s ("Columbia") Motion for Waiver (the "Request for Deferral").

On February 15, 2023, the Commissioners filed the Memorandum of Intervenor Board of County Commissioners, Union County, Ohio, Responding to Columbia Gas of Ohio, Inc.'s Motion for Waiver (the "Response to Motion for Waiver"). The Response to Motion for Waiver states:

The Board is also very much aware of Union County's agricultural heritage and the substantial role it plays in the ongoing vitality of the community. In particular, the Board supports the choice by members of the County's agricultural community to preserve agricultural lands for future generations by participating in the State of Ohio's agricultural easement program. *See*, R.C. §901.21 and R.C. 5301.67 et seq. The Board does not believe that land protected for agricultural purposes is a proper place for a natural gas pipeline easement not directly connected to agricultural activity on the protected lands.

To the extent that delays in construction of the Marysville Connector have resulted from efforts to route an easement for a natural gas pipeline across land protected by an agricultural easement, the Board does not support a waiver of the regulation in Ohio Adm. Code 4906-6-12(B). Instead, the Board encourages, even urges,

consideration of an engineering modification to avoid the agricultural easement lands.

The Request for Deferral states that there have been recent discussions between the Commissioners and Columbia that “focused on the potential to resolve the limited point of objection by the Board of County Commissioners, i.e., the proposed location of the natural gas pipeline across land protected by an Agricultural Easement.” The Request for Deferral states “The history of this case shows that these parties can work together...,” and “if this issue can be resolved, it will be resolved by the end of March 2023.” However, the Commissioners and Columbia do not have the authority to resolve this issue, and even if they did, an agreement regarding the relocation of the pipeline with the agreement of all interested parties, including the OPSB, could not be reached before the end of March, 2023, just 33 days away. For the pipeline to be relocated, *at least*, the following must occur:

1. Columbia has to identify an alternate route or routes;
2. Columbia has to prepare new engineering plans;
3. Columbia has to receive approval from the OPSB regarding the alternate route;
4. Columbia has to negotiate with the new property owner(s) whose property is affected by the alternate route;
5. Columbia has to commission appraisals to ascertain the value of the new property to be acquired;
6. If agreement(s) cannot be reached with the new property owner(s), Columbia has to follow the pre-appropriation lawsuit procedures set forth in R.C. § 163.01 et seq., including providing property owners at least 30 days notice of its intent to appropriate before filing an appropriation lawsuit;
7. If an appropriation action is filed, the affected property owner(s) has 28 days to file an Answer to Columbia’s Petition. The law provides that property owners have a right to 1) mediation, 2) protest the necessity for the take and 3) protest the right to appropriate;
8. If the property owner(s) asserts their right to protest, the Court must order a hearing that will take place prior to a trial on compensation;

The Commissioners' sole argument for deferral is that there is a possibility that the Commissioners and Columbia can resolve the issue of the relocation of the gas pipeline in 33 days or less. This is not a valid argument. The Intervenors respectfully request that the OPSB deny the Request for Deferral.

Respectfully submitted,

PLANK LAW FIRM, LPA

/s/ David Watkins

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Peter Renner*

CERTIFICATE OF SERVICE

I certify that the foregoing Response was filed with the Ohio Power Siting Board on February 27, 2023. The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this documents on the parties referenced on the service list of the docket card who have electronically subscribed to this case.

/s/ David Watkins

David Watkins (0059242)

**This foregoing document was electronically filed with the Public Utilities
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2/27/2023 3:12:57 PM

in

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Summary: Response Intervenor's Response to Supplemental Memorandum of Union County Commissioners, Union County, Ohio, Requesting Deferral of Action on Columbia Gas of Ohio, Inc.'s Motion for Waiver electronically filed by David Watkins on behalf of Bailey, Whitney and Bailey, Patrick and Bailey, Don and Renner, Charles