

IN THE SUPREME COURT OF OHIO

COLUMBIA GAS TRANSMISSION CORPORATION)	
)	
Appellee/Cross-Appellant,)	Case No. 06-1443
)	
- v. -)	Appeal from the Ohio Board of Tax Appeals
)	
THOMAS M. ZAINO, TAX COMMISSIONER OF OHIO)	Board of Tax Appeals Case No. 2003-K-1876
)	
Appellant/Cross-Appellee.)	

**MOTION OF APPELLEE/CROSS-APPELLANT
COLUMBIA GAS TRANSMISSION CORPORATION
FOR ARGUMENT TO THE SUPREME COURT
RATHER THAN A MASTER COMMISSIONER**

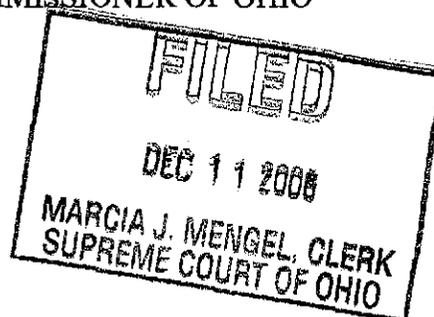
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Supreme Court Practice Rule IX, Section (7)(A), provides that:

Every case on appeal from the Board of Tax Appeals shall be referred to a regular or special master commissioner for oral argument unless the parties waive the argument or the Supreme Court, *sua sponte* or upon motion, decides to hear the argument itself. A motion for the Supreme Court to hear oral argument shall be filed within 20 days after the filing of appellee's brief.

Appellee/Cross-Appellant Columbia Gas Transmission Corporation ("Columbia Transmission") hereby moves the Supreme Court, in conformity with Rule IX, Section (7)(A), for an order setting this tax appeal and cross-appeal for oral argument before the Supreme Court.

The Tax Commissioner's appeal from the Board of Tax Appeals' July 28, 2006, decision and the resultant cross-appeal by Columbia Transmission, involve statutory and constitutional challenges to the 88% assessment rate currently applied to the personal property tax of natural gas pipeline companies. The issue has significant tax consequences not only for Appellee/Cross-Appellant, but for the State of Ohio, the natural gas industry, and natural gas consumers nationwide. The case turns on complex facts involving the structure and evolution of the natural gas industry, and involves an extensive factual record arising from a nine-day hearing before the Board of Tax Appeals with more than a hundred exhibits. The legal issues, too, are complex. Columbia Transmission has raised significant constitutional arguments that the Tax Commissioner's current treatment of it and asserted that its tax treatment is inconsistent with the Dormant Commerce Clause, the Supremacy Clause, and Equal Protection and Due Process.

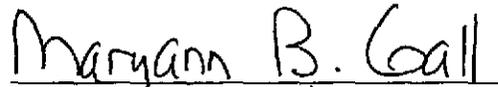
The Board of Tax Appeals correctly found, with respect to Columbia Transmission's constitutional challenges:

. . . we acknowledge once again the lack of our ability to ultimately resolve such claims. See, e.g., Cincinnati Bell Tel. Co. v. Zaino (June 10, 2005), BTA Nos. 2003-K-765, et al., unreported. Instead, as pointed out by the Supreme Court in MCI Telecommunications Corp. v. Limbach (1994), 68 Ohio St.3d 195, such authority is reserved to Ohio's courts. (Decision, at 9).

In conformity with this Court's directives, the Board of Tax appeals received evidence concerning the constitutional claims, but made no factual findings or legal conclusions. These are within the purview of this Court's jurisdiction. For this reason, the Supreme Court itself should hear the facts and law related to the constitutional issues.

Given the importance and complexity of the issues involved, and given that the case raises substantial constitutional issues, oral argument before the Court rather than a master commissioner is necessary. As such, Columbia Gas Transmission Corporation, Appellee/Cross-Appellant, respectfully moves the Court to hear oral argument in this case

Respectfully submitted,



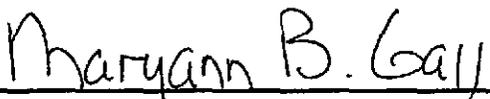
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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Motion of Appellee/Cross-Appellant Columbia Gas Transmission Corporation for Argument to the Supreme Court Rather than a Master Commissioner was delivered by messenger to Barton A. Hubbard Esq. (Counsel of Record), Assistant Attorney General, Cheryl D. Pokorny, Deputy Attorney General, and Janyce C. Katz, Assistant Attorney General, Office of the Attorney General, Taxation Section, Rhodes State Office Tower, 16th Floor, 30 East Broad Street, Columbus, Ohio 43215, attorneys for Appellant/Cross-Appellee Tax Commissioner of Ohio, and delivered by Federal Express to Appellant/Cross-Appellee Tax Commissioner of Ohio, to Fred J. Livingston, Taft Stettinius & Hollister LLP, 3500 BP Tower, 200 Public Square, Cleveland, Ohio 44114-2302, attorney for Amicus Curiae The Ohio School Boards Association, and to Andrea Wolfman, Thelen Reid & Priest LLP, 701 8th Street, N.W., Suite 800, Washington, DC 20001, attorney for Amicus Curiae Interstate Natural Gas Association of America, on this 11th day of December, 2006.



One of the Attorneys for
Appellee/Cross-Appellant
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