

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc., for)
Continued Accounting Authority to Defer)
Differences between Actual Base)
Revenues and Commission-Approved)
Base Revenues Previously Granted in)
Case No. 05-1444-GA-UNC and Request)
to Consolidate with Case No. 07-1080-)
GA-AIR.)

Case No. 08-632-GA-AAM

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

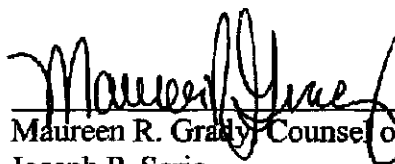
The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all residential utility consumers of the Vectren Energy Delivery of Ohio, Inc., moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in the above-captioned proceeding regarding accounting authority for deferrals.¹ OCC's Motion should be granted because OCC meets the legal standards for intervention, as explained in detail in the attached Memorandum in Support.

¹ See R.C. Chapter 4911.02(B)(2); R.C. 4903.221; and Ohio Adm. Code 4901-1-11.

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Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Maureen R. Grady", is written over a horizontal line.

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On May 23, 2008, Vectren Energy Delivery of Ohio, Inc. ("Vectren") filed an Application in the above-captioned case seeking approval for continued accounting authority to defer differences between actual base revenues and Commission-approved base revenues, as previously authorized in Case No. 05-1444-GA-UNC, until the resolution of Vectren's pending rate application in Case No. 07-1080-GA-AIR.² In addition, Vectren seeks that the instant case be consolidated with Case No. 07-1080-GA-AIR.³

This application will affect all of the approximately 293,000 residential customers in Vectren's gas service territory. The Commission should grant OCC's Motion to

² Application at 1.

³ Id.

Intervene in this proceeding so that OCC can fully participate in this proceeding and protect the interests of Vectren's residential customers.

II. INTERVENTION

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, under R.C. Chapter 4911.02(B)(2). R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding may seek intervention in that proceeding. OCC meets this standard because the interests of Ohio's residential consumers may be "adversely affected" if consumers are unrepresented in a proceeding in which they may be wrongly caused to pay higher utility rates by the continued authorization of the accounting practices Vectren seeks. Notably, the accounting authority presently sought by Vectren stems from Case No. 05-1444-GA-UNC, a case in which OCC was an active party. Additionally, Vectren seeks to consolidate this case with Case No. 07-1080-GA-AIR, another proceeding in which OCC has moved to intervene and in which OCC is actively participating on behalf of Ohio's residential consumers. These cases will have an immediate impact on the rates Vectren's customers will pay, and customer interests may be adversely affected if OCC is not similarly allowed to intervene in this case. Thus, the "adversely affected" element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission 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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

OCC meets these criteria.

First, the nature and extent of OCC's interest is representing the residential consumers of Vectren. This interest is different than that of any other party and especially different than that of the utility that advocates for its own financial interests.

Second, OCC's legal position is that the accounting authority sought by Vectren should be limited to that which is reasonable and permissible under Ohio law. OCC's position, therefore, is directly related to the merits of this case pending before the PUCO that regulates public utilities' rates.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC has longstanding expertise and experience in PUCO proceedings, and will contribute to the process of the case.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will present arguments 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 residential utility consumer advocate, OCC has a very real and substantial interest in this case where Vectren seeks accounting treatment that will impact upon the rates paid by Vectren's customers.

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) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission 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 because it has been uniquely designated as the state representative of the interests of Ohio’s residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio has confirmed OCC’s right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC’s intervention and that OCC should have been granted intervention.⁴ Similar to the instant proceeding, that Ohio Supreme Court decision was related to an application by a utility to change its accounting procedures.

OCC meets the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Additionally, granting OCC intervention is consistent with the intervention standards explained by the Supreme Court of Ohio. On behalf of the residential consumers of Vectren, the Commission should grant OCC’s Motion to Intervene.

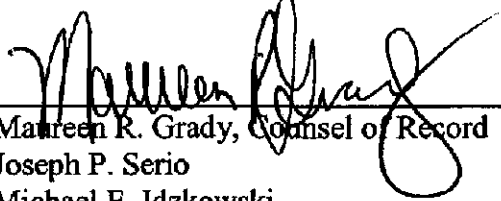
⁴ *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

III. CONCLUSION

For the reasons stated above, the Commission should grant OCC's Motion to Intervene on behalf of the approximately 293,000 residential customers who have an interest in the outcome of this case.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

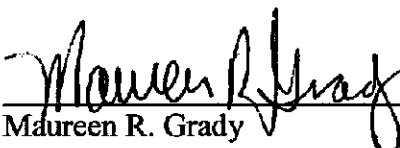


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Motion to Intervene* was served upon the persons listed below via first class U.S. Mail, postage prepaid, this 24th day of June 2008.


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