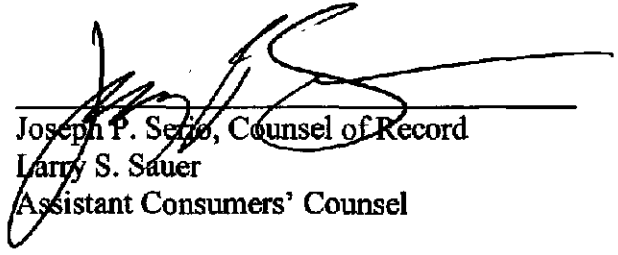


Respectfully submitted,

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
The East Ohio Gas Company d/b/a Dominion)	
East Ohio to Adjust its Automated Meter)	Case No. 09-1875-GA-RDR
Reading Cost Recovery Charge and Related)	
Matters.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On November 30, 2009, the Company filed a PFN pursuant to the Commission's Opinion and Order,⁴ R.C. 4905.04, 4929.11 and other applicable law, to give notice of an impending application supporting an AMR cost recovery charge for costs incurred during calendar year 2008. On March 1, 2010, Dominion filed its Application, including updated twelve months of actual 2009 data. Dominion's PFN included provisional estimated schedules.⁵

II. INTERVENTION

Pursuant to R.C. Chapter 4911, the OCC moves to intervene under its legislative authority to represent the interests of the natural gas residential utility customers in DEO's service territory. The procedures for DEO to request an adjustment for collection, from

⁴ *In the Matter of the Application of the East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service*, Case No. 07-859-GA-AIR, et al. Opinion and Order at 10, 13 (October 15, 2008) In its Order, the Commission approved DEO's use of an automatic adjustment mechanism to collect from customers the costs associated with deployment of its AMR technology.

⁵ Application at 3.

customers, of its AMR deployment costs were approved in DEO's recent rate case; however, the amount of the adjustment that customers will pay and DEO's evidence in support of the increase are open to investigation and challenge.

The interests of DEO's residential natural gas customers in Ohio may be "adversely affected" by this case, depending on, among other things, the amount of the adjustment to the AMR Rider rate that is ultimately approved, thus satisfying the intervention standard in R.C. 4903.221. The OCC also meets the Commission's required showing for a party that has a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2), and should therefore be permitted to intervene in this case.

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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest includes that residential customers are affected by the affordability of their energy bills, especially during the winter heating season. An unjust and unreasonable increase to DEO's AMR Rider rate would adversely affect these customers' interests. The General Assembly deemed the interests of residential customers worthy of protection through legislative authority in R.C. Chapter 4911. The OCC should be permitted to intervene to protect these interests.

Second, the legal positions advanced by the OCC regarding the reasonableness and lawfulness of the Application have an actual, and not just “probable,” relation to the merits of the case. Third, OCC’s participation will not unduly prolong or delay the proceeding. In fact, OCC’s intervention will provide insights based upon expertise to assist the Commission in its resolution of the Application. Fourth, OCC’s advocacy for consumers will significantly contribute to the full development and equitable resolution of the issues herein. Therefore, OCC’s intervention is consistent with and supported by the statute.

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. The nature and extent of OCC’s interest lies in assuring that the provision of natural gas services will effectively and efficiently serve the energy needs of DEO’s residential consumers.

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 in that it uniquely has been 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 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.⁶

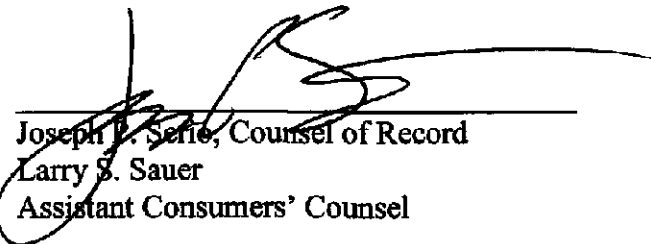
For the reasons discussed above, the OCC satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Therefore, OCC's Motion to Intervene should be granted.

III. CONCLUSION

Therefore, for all the reasons stated above, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

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⁶ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶13-20 (2006).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Motion to Intervene* was provided to the persons listed below via electronic service this 11th day of March 2010.



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