

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc. to)
to File Revised Tariffs Extending Its Low) Case No. 10-1395-GA-ATA
Income Pilot Program)

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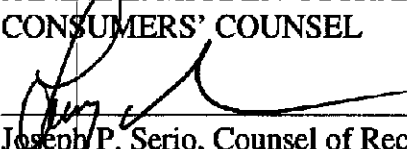
**MOTION TO INTERVENE AND COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility customers of Vectren Energy Delivery of Ohio, Inc. ("Vectren" or "the Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in this proceeding. In this case Vectren is requesting an extension of its low-income pilot program ("Pilot Program").

OCC's Motion should be granted because OCC meets the legal standards for intervention, as explained in detail in the attached Memorandum in Support.

Respectfully submitted,

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CONSUMERS' COUNSEL



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I. INTRODUCTION

On September 17, 2010, the Company filed revised tariffs requesting the Commission to authorize Vectren to extend the Pilot Program to March 31, 2011.⁴ The

⁴ Application at 1.

Commission issued a Finding and Order instructing the Staff to review Vectren's Pilot Program.⁵ The Finding and Order states:

As a final matter, the Commission finds it appropriate for Staff to review Vectren's Pilot Program and file its results with the Commission in this docket by October 29, 2010. The staff report should include, at least, the following information:

(a) A comparison of the total annual bill incurred by customers consuming between 10 and 70 thousand cubic feet (Mcf) at 10 Mcf intervals under (1) the distribution and commodity rates in effect prior to the last base rate proceeding and (2) the distribution and **commodity rates currently in effect.**

(b) The number of Vectren residential customers at various consumption levels between 10 and 70 Mcf and 10 Mcf intervals and at any other consumption level Staff believes is pertinent to our review.⁶

OCC is very interested in the outcome of the Commission Staff's review. However, as OCC has argued in the Dominion East Ohio Low-Income Pilot Program,⁷ the Commission Staff's analysis that uses current commodity rates in the analysis -- commodity rates which have significantly dropped since the Vectren Rate Case -- disguises the onerous effect that the SFV rate design has on low-use/low-income residential customers.⁸

⁵ Finding and Order at 2 (September 29, 2010).

⁶ Id (emphasis added).

⁷ *In re Dominion Low Income Pilot Program*, Case No. 10-200-GA-ATA, OCC Comments at 8-9 (June 3, 2010).

⁸ *In re Dominion Low Income Pilot Program Review*, Case No. 10-200-GA-ATA, OCC Comments at 8-9 (June 3, 2010).

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 Vectren's service territory. The Pilot Program is an outgrowth from the Vectren rate case. The Pilot Program was designed by the Commission to address concerns that the SFV rate design will have an adverse impact on low-use low-income residential consumers. OCC advocated against the SFV rate design for numerous well-documented reasons including concerns that the low-use low-income customers would be harmed by the SFV rate design. Therefore, it is clear that residential customers have an interest in this matter.

The interests of Vectren's residential customers may be "adversely affected" by this case, depending on the outcome of the Commission Staff's review of the Pilot Program.⁹ This evaluation will be a determining factor in the continuation of this program, and it potentially will impact the rates paid by eligible residential customers for the Pilot Program, 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;

⁹ *In re Dominion Low Income Pilot Program Review*, Case No. 10-200-GA-ATA, See OCC Motion to Intervene and Comments (March 4, 2010), OCC Comments (June 3, 2010) and Reply Comments (June 17, 2010).

- (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 how residential customers are affected by the affordability of their energy bills, especially during the winter heating season. The SFV rate design will force low-use low-income customers to pay higher delivery charges than they were accustomed to paying prior to implementation of the SFV rate design (e.g. under the traditional rate design that featured a low fixed monthly customer charge and a higher variable charge); therefore, it is important to fully and completely evaluate the effectiveness of the Pilot Program in determining whether the Company should continue to offer this important program.¹⁰ 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 positions that OCC advances regarding the impact of the rates resulting from the SFV rate design on low-use low-income residential customers will have an actual, and not just "probable," relation to the merits of the case, as can be demonstrated by the ultimate determination of the fate of the Pilot Program and the effect the Pilot Program has on the rates paid by residential customers. Alternatively, OCC advocates that the money derived from Vectren shareholders could instead be used to provide low-income customers with bill payment assistance (e.g. \$4.00 per customer per

¹⁰ Application at 1.

month x 5,000 customer x 12 months = \$240,000). Using the dollars in this fashion will do far more to help consumers than providing an insufficient discount to a limited number of low-income customers. In the event that the Commission does not agree that a fuel fund is needed and is the best way to help customers, then the Commission should continue the discount funded to assist 5,000 customers.

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 evaluation of the Pilot Program. 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 Vectren'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.¹¹

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 on behalf of residential consumers.

¹¹ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶13-20 (2006).

Respectfully submitted,

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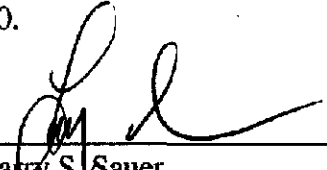


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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene by the Office of the Ohio Consumers' Counsel* was served on the persons stated below via first class U.S. Mail, postage prepaid, this 14th day of October, 2010.



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