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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Adjust its Distribution Replacement Rider Charges.	))))	Case No. 11-2776-GA-RDR

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

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers of Vectren Energy Delivery of Ohio, Inc. ("Vectren" or "Company"), moves[1] the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant the OCC's intervention in this case wherein Vectren filed an application ("Application") to seek an annual increase to its Distribution Replacement Rider ("DRR") rates. The Company seeks a DRR Rate of $1.27 per month beginning in September 1, 2011, to be charged to Vectren's 270,000 residential customers.[2] The reasons the PUCO should grant this Motion are more fully explained in the attached Memorandum in Support.

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[1] R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

[2] Application at Exhibit 4 (April 29, 2011).

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Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On April 29, 2011, the Company filed an Application seeking Commission approval of the proposed DRR that Vectren would ask customers to pay. Under the DRR, Vectren is installing plastic mains and service lines to replace the cast iron and bare steel mains and metallic service lines throughout its service territory in an accelerated time period, and replacing natural gas risers and hazardous customer service lines.[3]

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 procedure for Vectren to request the annual increases to its DRR rates was agreed to in the Vectren Rate Case;[4] however, the amount of the increase and Vectren's evidence in support of the increase is open to investigation and challenge.

The interests of Vectren's residential natural gas customers in Ohio may be "adversely affected" by this case, depending on, among other things, the amount of the increases to the DRR

[3] Application at 1-2 (April 29, 2011).

[4] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al., Opinion and Order at 5 (January 7, 2009).

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 representing the interests of residential customers under the 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. These legal positions include that Vectren should not charge customers more than just and reasonable rates.

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 treatment 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 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.[5]

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

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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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 first class U.S. Mail, postage prepaid, this 2nd day of June 2011

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