

In the Matter of the Amendment of)
 Certain Rules of the Ohio Administrative) Case No.11-4910-AU-ORD
 Code to Implement Section 4911.021,)
 Revised Code.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this proceeding where the Public Utilities Commission of Ohio ("Commission" or "PUCO") is seeking comment on proposed changes in the PUCO's rules governing the form that public utilities, competitive retail electric service providers, and competitive retail natural gas suppliers should use for advising Ohio customers of OCC's contact information.² OCC is filing on behalf of all the approximately 4.5 million residential utility customers in Ohio. The reasons the Commission should grant OCC's Motion are further set forth in the attached Memorandum in Support. In addition, OCC provides its comments on the PUCO Staff's proposals.

² See Amended Substitute House Bill 153 at R.C. 4911.021.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

/s/ Melissa R. Yost

Melissa R. Yost, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (614) 466-1291

yost@occ.state.oh.us

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of)	
Certain Rules of the Ohio Administrative)	Case No.11-4910-AU-ORD
Code to Implement Section 4911.021,)	
Revised Code.)	

**MEMORANDUM IN SUPPORT
AND
COMMENTS**

I. INTRODUCTION

On September 29, 2011, a new law becomes effective that prohibits the OCC from operating a telephone call center for customer complaints and requires that any calls received by the OCC concerning customer complaints be forwarded to the PUCO's call center.³ The PUCO has indicated that it has opened this docket for the purpose of seeking comments on what changes should be made to the Commission's rules in light of R.C. 4911.021.⁴

This proceeding is important for residential customers because the Commission will determine how the its rules regarding residential customer bills, disconnection notices, notices of customer rights, and contract disclosures that contain information regarding the OCC should be amended in response to R.C. 4911.021. OCC has authority under law to represent the interests of all the approximately 4.5 million residential utility customers in Ohio, pursuant to R.C. Chapter 4911.

³ See Amended Substitute House Bill 153 at R.C. 4911.021.

⁴ See September 7, 2011 Entry.

II. INTERVENTION

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding where the Commission will consider the appropriate form for advising customers of OCC’s contact information. Thus, this 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.

First, the nature and extent of OCC’s interest is representing all of the residential utility customers in Ohio in this case involving changes to the PUCO rules regarding residential customer bills, disconnection notices, notices of customer rights, and contract disclosures that contain information regarding the OCC. This interest is different than that of any other party and especially different than that of the public utility whose advocacy includes the financial interest of stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that the changes should be in compliance with the law and provide appropriate

information to Ohio residential customers. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information 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 advocate for residential utility customers, OCC has a very real and substantial interest in this case where the requirements for residential customer bills, disconnection notices, notices of customer rights, and contract disclosures are being amended.

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 customers. 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 deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁵

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the Commission should grant OCC's Motion to Intervene.

III. COMMENTS

On September 29, 2011, a new law becomes effective that prohibits the OCC from operating a telephone call center for customer complaints and requires that any calls received by the OCC concerning customer complaints be forwarded to the call center of the PUCO.⁶ The PUCO has indicated that it has opened this case for the purpose of seeking comments on the appropriate changes to the Commission's rules needed in light of the statutory requirements of the soon to be effective R.C. 4911.021.⁷ The PUCO has invited all interested person to file comments regarding the PUCO Staff's

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

⁶ See Amended Substitute House Bill 153 at R.C. 4911.021.

⁷ See September 7, 2011 Entry.

proposed changes to the Commission's rules regarding residential customer bills, disconnection notices, notices of customer rights, and contract disclosures that contain the OCC's contact information.

OCC appreciates this opportunity provided by the Commission to comment on the PUCO Staff's proposed changes to the Commission rules as discussed above. OCC has reviewed the Staff's proposed changes and agrees with the changes as proposed in response to the new legislation. The Staff's proposed changes adequately address the change in the law regarding OCC's role and, therefore; no further changes are needed.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

/s/ Melissa R. Yost
Melissa R. Yost, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-1291
yost@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene and Comments* was served on the persons stated below *via* electronic service this 21st day of September 2011.

/s/ Melissa R. Yost _____
Melissa R. Yost
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Chief, Public Utilities Section
Public Utilities Commission of Ohio
180 East Broad Street 6th Floor
Columbus, Ohio 43215
william.wright@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/21/2011 4:05:08 PM

in

Case No(s). 11-4910-AU-ORD

Summary: Motion Motion to Intervene and Comments by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Yost, Melissa Ms.