

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)
of Time-Differentiated and Dynamic) Case No. 12-150-EL-COI
Pricing Options for Retail Electric)
Services.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the Commission has opened an investigation into pricing options for retail electric customers in Ohio.¹ The OCC files on behalf of all the residential utility customers of Ohio's investor-owned electric utilities. The reasons the Public Utilities Commission of Ohio ("Commission" or "PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE W. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ Jeffrey L. Small

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

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MEMORANDUM IN SUPPORT

On January 11, 2012, the Commission opened an investigation into “the pricing options available to consumers for competitive retail electric service.”² The OCC has authority under law to represent the interests of all the residential utility customers of investor-owned electric utilities in Ohio, pursuant to R.C. Chapter 4911.

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 in which the PUCO’s pricing policy for vital electric service is determined for application in related electric industry cases. 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

² Entry at 1, ¶(1) (January 11, 2012).

- (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 the OCC's interest is representing the residential customers of the residential utility customers of investor-owned electric utilities in Ohio in this case that involves pricing options for competitive retail electric service (including such service to residential customers). This interest is different than that of any other party.

Second, the OCC's advocacy for residential customers will include advancing the position that rates should be reasonable and lawful for service that is adequate under Ohio law. The 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' rates and service quality in Ohio.

Third, the 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, the OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. The OCC will obtain and develop information that the PUCO should consider for equitably and lawfully reviewing retail pricing options in the public interest.

The OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that the 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, the OCC has a

very real and substantial interest in this case where pricing options for customers -- including residential customers -- is at issue.

In addition, the 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 the OCC already has addressed and that the 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 the OCC does not concede the lawfulness of this criterion, the 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 the OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which the OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying the OCC’s interventions and that the OCC should have been granted intervention in both proceedings.³

The 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 the OCC’s Motion to Intervene.

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

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below, via electronic transmission, this 17th day of January 2012.

/s/ Jeffrey L. Small _____
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Small, Jeffrey L. Mr.