

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application and Joint)
Stipulation and Recommendation of)
Vectren Energy Delivery of Ohio, Inc., et) Case No. 12-483-GA-EXM
al. for Approval of its Exemption)
Authority Granted in Case No. 07-1285-)
GA-EXM.)

**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 Vectren Energy Delivery of Ohio, Inc. ("Vectren" or "the Company") filed an Application to revise certain aspects of its Standard Choice Offer ("SCO") service that provides certain customers with a default service alternative to the Choice Program.¹ OCC is filing on behalf of all the approximately 270,000 residential utility customers of Vectren. The reasons the Public Utilities Commission of Ohio ("Commission" or "the PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ Joseph P. Serio

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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 31, 2012, Vectren filed an Application proposing to make certain modifications to Vectren's SCO service. SCO service is a default service alternative to the Choice Program. Vectren's Application notes that certain findings upon which the PUCO's April 30, 2008 Exemption Opinion and Order were based, are no longer valid.

Specifically, Vectren identified four areas of concern: 1) changed economic conditions have resulted in unanticipated amounts for the uncollectible expense rider ("UEX"), 2) retirement of Vectren's liquid propane ("LP") facilities, 3) revisions to the contingency plans in the event an SCO auction result should be rejected by the PUCO, and 4) a reduced need for quarterly exit transition cost ("ETC") rider filings.² In a February 24, 2012 Entry, the Attorney Examiner established a deadline for Motions to Intervene of March 8, 2012.

OCC has been an active participant in the development of the current SCO service and was involved in the discussions that resulted in the modifications being sought by the Company's application. OCC has authority under law to represent the interests of all the

² Vectren Application at 2-3.

approximately 270,000 residential utility customers of Vectren, 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 that will modify the SCO service currently provided to a substantial number of Vectren’s residential customers. 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 the residential customers of Vectren in this case involving the modification of certain aspects of the SCO service that currently is relied upon by a substantial number of Vectren’s residential customers. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that Vectren’s residential customers should only pay a resulting SCO service rate

that is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. 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, 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 SCO service relied upon by a substantial number of residential customers may be modified.

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.³

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.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ Joseph P. Serio

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³ See *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 this *Motion to Intervene* was served on the persons stated below *via* electronic service this 1st day of March 2012.

/s/ Joseph P. Serio

Joseph P. Serio
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.