

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation of Ohio's Retail Electric)	Case No. 12-3151-EL-COI
Service Market.)	

**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 Public Utilities Commission of Ohio ("PUCO" or "Commission") opened an investigation into how Ohio electricity customers are served by the retail electric service market. The Commission has requested comments on a number of areas, and will be addressing issues that affect both standard service offer customers and customers who are receiving service from competitive retail electric service providers. OCC is filing on behalf of all of the residential utility customers in the state of Ohio. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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/s/ Maureen R. Grady

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¹ “Default service” is referred to under R.C. 4828.14 and pertains to the scenario where a supplier fails to provide retail electric generation service to customers within the certified territory of an electric distribution utility, and the customer defaults to the utility’s standard service offer. It appears that the PUCO is using the term “default service” to mean the utility’s standard service offer service, and not just service that the customer defaults to due to supplier failure.

supply and demand-side retail electric service, protecting consumers against market deficiencies and market power, the use of smart meters by competitive retail electric service providers, energy efficiency products, and the potential for customers to be misled by a utility's corporate separation structure. OCC has authority under law² to represent the interests of all residential electric utility customers of 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 where, inter alia, the terms of default service may be decided. 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 Ohio electric utilities in this case involving the Commission investigation of

² See R.C. Chapter 4911.

retail electric service. This interest is different than that of any other party and especially different than that of the utilities and Competitive Retail Electric Service (“CRES”) suppliers whose advocacy includes the financial interest of their stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that customers are entitled under the law to reasonably priced retail electric service³ and that the Commission’s investigation should be geared toward fulfilling obligations that presently exist under the law to protect consumers. OCC’s position is therefore directly related to the investigation by the PUCO, the authority with regulatory control of public utilities’ rates and service obligations 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, inter alia, the terms of default service are being evaluated.

³ See R.C. 4929.02(A).

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.⁴

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.

⁴ 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 to the persons listed below, this 21st day of December 2012.

/s/ Maureen R. Grady

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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 Grady, Maureen R. Ms.