

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of)	
Chapters 4901:1-10 and 4901:1-21, Ohio)	Case No. 14-1411-EL-ORD
Administrative Code, Regarding Electric)	
Companies and Competitive Retail)	
Electric Providers.)	

**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") will adopt rules governing the disclosure to customers of the "costs" of the renewable energy resource, energy efficiency, and peak demand reduction requirements of R.C. 4928.64 and 4928.66. Under Substitute Senate Bill 310, the "costs"¹ of renewable energy resource, energy efficiency, and peak demand resource programs are to be listed on each customer's monthly bill as a distinct line item.² OCC submits that any changes to consumers' electric utility bills should be clear, accurate, and understandable.³

OCC is filing on behalf of all of Ohio's electric residential utility customers. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ "Costs" are not defined under Substitute Senate Bill 310.

² R.C. 4928.65 (C).

³ Ohio Adm. Code 4901:1-10-22 (B).

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Kyle L. Kern

Kyle L. Kern, Counsel of Record

Michael J. Schuler

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Kern Direct – 614-466-9585

Telephone: Schuler Direct – 614-466-9547

Kyle.kern@occ.ohio.gov

Michael.schuler@occ.ohio.gov

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of)	
Chapters 4901:1-10 and 4901:1-21, Ohio)	Case No. 14-1411-EL-ORD
Administrative Code, Regarding Electric)	
Companies and Competitive Retail)	
Electric Providers.)	

MEMORANDUM IN SUPPORT

Accurate, clear, and understandable utility bills⁴ are important for Ohio consumers. Under Substitute Senate Bill 310, the “costs” of renewable energy resource, energy efficiency, and peak demand resource programs are to be listed on each customer’s monthly bill as a distinct line item.⁵ In this proceeding, the PUCO will adopt rules governing the disclosure of this information to customers.⁶ OCC has authority under law to represent the interests of all electric residential utility consumers, 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 consumers were unrepresented in a proceeding where the PUCO will determine how the “costs” of the renewable energy resource, energy efficiency and peak demand reduction requirements of R.C. 4928.64 and 4928.66 will be disclosed to customers on their electric utility bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

⁴ Consistent with Ohio Adm. Code 4901:1-10-22(B).

⁵ R.C. 4928.65 (C).

⁶ Entry at 1 (August 15, 2014).

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 is representing Ohio residential electric consumers in this case involving the PUCO's determination of how the costs of the renewable energy resource, energy efficiency and peak demand reduction requirements of R.C. 4928.64 and 4928.66 will be disclosed to customers on their electric utility bills. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interests of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the information on consumers' utility bills should be accurate, clear, and understandable.⁷ 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.

⁷ Ohio Adm. Code 4901:1-10-22(B).

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 accuracy and understandability of consumers' utility bills is at issue.

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 PUCO 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.⁸

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 PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Kyle L. Kern

Kyle L. Kern, Counsel of Record
Michael J. Schuler
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Kern Direct – 614-466-9585

Telephone: Schuler Direct – 614-466-9547

Kyle.kern@occ.ohio.gov

Michael.schuler@occ.ohio.gov

⁸ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

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 9th day of October, 2014.

/s/ *Kyle L. Kern* _____
Kyle L. Kern
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Ohio Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad St., 6th Fl.
Columbus, OH 43215
William.wright@puc.state.oh.us

Attorney Examiner:

Mandy.willey@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/9/2014 12:00:07 PM

in

Case No(s). 14-1411-EL-ORD

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Kern, Kyle L.