

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Dayton )  
Power and Light Company for Approval ) Case No. 14-2043-EL-UNC  
of a Revised Bill Format for Electric )  
Service. )

In the Matter of the Application of the )  
Dayton Power and Light Company for ) Case No. 14-2042-EL-AAM  
Approval of Certain Accounting )  
Authority. )

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

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene<sup>1</sup> in this case where Dayton Power and Light Company. ("DP&L" or "the Utility") filed seeking changes in the way it bills customers for electric generation services. OCC is filing this Motion on behalf of the approximately 450,000 residential utility customers of DP&L.

DP&L proposes to make the following changes: 1) include supplier logos on bills, 2) modify price-to-compare bill message, 3) divide charges between "Delivery" and "Supply" on bills, 4) update bill size., and 5) defer bill modification expenses of approximately \$500,000 <sup>2</sup> The Utility will implement the billing system and website functionality changes approximately six months after the Public Utilities Commission of Ohio ("PUCO") approves its Application.

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

<sup>2</sup> *In the Matter of the Application of The Dayton Power and Light Company for Approval of a Revised Bill Format for Electric Service, et. al.*, Case No. 14-2043-EL-UNC, Application at 1-2 (November 21, 2014).

DP&L filed its application on November 21, 2014. The changes, as proposed by the Utility, may eventually result in increased costs to all customers. Additionally, the changes proposed to the bill format may confuse customers, instead of making bills more understandable. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support, which includes initial comments on DP&L's Application.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Joseph Serio

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transmission*

## TABLE OF CONTENTS

	PAGE
I. BACKGROUND .....	1
II. MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE.....	2
III. INITIAL COMMENTS .....	5
A. DP&L’s Proposed Request For Deferral Authority Must Be Properly Analyzed In Order To Determine If The Alleged Costs Are Justified And Whether There Is Legal Authority That Permits Such Deferrals.....	5
B. DP&L Should Modify Its Proposed Bill Format To Disclose More Details About How The Supplier And Delivery Charges Are Calculated. ....	7
IV. CONCLUSION.....	9

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**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE  
AND  
INITIAL COMMENTS**

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**I. BACKGROUND**

On December 12, 2012, the Public Utilities Commission of Ohio (“PUCO”) opened an investigation into the vitality of Ohio’s competitive retail electric service market. The PUCO presented a series of questions to stakeholders about the market design and corporate separation as they impact the CRES market.<sup>3</sup> On March 23, 2014, the PUCO adopted, in part, the recommendations in the Staff’s Market Development Work Plan.<sup>4</sup> The PUCO issued its final Entry on Rehearing on May 21, 2014, directing electric distribution utilities to file applications, within six months, to revise to their consolidated bill formats so that they conform with the law (R.C. 4928.02, 4928.07, 4928.10), and the PUCO’s findings in the PUCO Investigation Case.<sup>5</sup>

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<sup>3</sup> *In the Matter of the Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3151-EL-COI, Entry (December 21, 2012) (“Retail Market Investigation Case”).

<sup>4</sup> Retail Market Investigation Case, Entry on Rehearing at 10-11 (May 21, 2014).

<sup>5</sup> *Id.* at 16.

On November 21, 2014, DP&L filed an Application requesting approval of the proposed changes to its customer bills.<sup>6</sup> Specifically DP&L requests PUCO approval to make the following changes: 1) include supplier logos on bills, 2) modify price-to-compare bill message, 3) divide charges between “Delivery” and “Supply” on bills, 4) update bill size., and 5) defer bill modification expenses of approximately \$500,000.<sup>7</sup> The Utility proposed implementing the billing system and website functionality changes approximately six months after the PUCO approves the Application.

These proposed changes may impose more costs on DP&L’s 450,000 residential customers -- costs that are more appropriately born by competitive retail electric suppliers (“CRES”), who will benefit from the changes. Additionally, OCC proposes to add clarity to the bill by refining the language in the supply and delivery sections.

The OCC respectfully requests that the PUCO grant it intervention and deny DP&L’s request for authority to defer any additional charges. In the alternative, if the PUCO wishes to review the costs associated with DP&L’s proposed bill format changes, the PUCO must establish a procedural schedule that allows for parties to intervene, conduct discovery, file testimony, and proceed to an evidentiary hearing.

## **II. MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

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 DP&L’s residential customers<sup>8</sup> may be “adversely affected” by this case, especially if the

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<sup>6</sup> *In the Matter of the Application of The Dayton Power and Light Company for Approval of a Revised Bill Format for Electric Service, et. al.*, Case No. 14-2043-EL-UNC, Application at 1-2 (November 21, 2014).

<sup>7</sup> *Id.*, Application at 1-3 (November 21, 2014).

<sup>8</sup> OCC has authority under law to represent the interests of all DP&L residential utility customers pursuant to R.C. Chapter 4911.

customers were unrepresented in a proceeding where the Utility has requested review of proposed changes to the way it bills customers for electric service. Customers' utility bills, by rule, must contain "clear and understandable form and language." The proposals of the Utility could adversely affect customers who have to decipher and pay electric utility bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

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 the residential customers of the Company in this case involving DP&L's request for changes to its bill format, especially if the changes do not result in customers being able to easily differentiate between supplier charges and distribution charges. Additionally any bill changes should enable customers to calculate their bills. This interest is different than that of any other party and particularly 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 customers' bills should be accurate and understandable to the customer. Customers should be able to easily differentiate between supplier charges and distribution

charges and be able to calculate their bills.<sup>9</sup> 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 DP&L has requested expedited review of proposed changes to its bill format.

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

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<sup>9</sup> Ohio Admin. Code 4901:1-10-22(B).

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.<sup>10</sup>

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.

### **III. INITIAL COMMENTS**

#### **A. DP&L's Proposed Request For Deferral Authority Must Be Properly Analyzed In Order To Determine If The Alleged Costs Are Justified And Whether There Is Legal Authority That Permits Such Deferrals.**

Though the Utility requests that the PUCO approve the deferral of approximately \$500,000 to make changes to its billing system, DP&L has provided nothing to substantiate the alleged costs. Additionally, this case does not involve the ratemaking authority of the PUCO. There has been no Utility application that seeks authority to increase rates or implement new charges to customers. Nor has DP&L shown that the costs are just and reasonable. Neither this case, nor the rulemaking has not yet provided parties with an opportunity to conduct discovery according to R.C. 4903.082, or review

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<sup>10</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).



the costs allegedly incurred to comply with the PUCO's directives for Case No. 12-3151-EL-COI.

The Utility provides no legal basis upon which the PUCO can allow these deferrals. In the PUCO's 2012 case investigating Ohio's retail electric service market, the PUCO determined that EDUs could file applications for authority to defer expenses related to the bill format changes. However, the PUCO determined that it would "then evaluate the applications for deferral authority to determine whether the deferred costs are reasonable, appropriately incurred, clearly and directly related to the circumstances for which they were authorized, and in excess of expense amounts already included in rates at the time of approval."<sup>11</sup>

DP&L provides no details that allow the PUCO to determine that the costs are reasonable, appropriately incurred, clearly and directly related to the circumstances for which they were authorized, and in excess of expense amounts already included in rates. In fact, the Application simply states that the Utility estimates that costs to comply with the bill format changes will be approximately \$500,000. DP&L provides no cost support. All EDUs are under the same obligation to make the necessary bill format changes and when AEP filed its Application to make bill format changes on the same day as DP&L, it stated that "AEP Ohio's projected costs associated with this new regulatory requirement are not significant enough to be discretely collected in a separate charge the PUCO should deny the Utility's Application to defer costs -- costs that are a prelude to rate increases to customers.

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<sup>11</sup> Retail Market Investigation Case, Entry on Rehearing at 10 -11 (May 21, 2014).

To help promote efficiency in the implementation of the proposed bill format changes, OCC supports the request made by DP&L that the implementation of the proposed bill format changes coincide with bill format changes that are being ordered by the PUCO in Case No. 14-1411-EL-ORD. OCC recommends that CRES providers pay for all costs associated with putting their logos or any other marketing-related material on public utility distribution customer bills. Costs of competitive market practices, processes and market rules should be paid by those entities that most directly benefit from them -- CRES.

Additionally, to include competitive generation suppliers' logos on public utility distribution customers' bills goes against Ohio law. R.C 4909.15(A)(4) only allows the costs to be included in distribution rates are those that were incurred to render public utility service. The costs to put competitive generation suppliers logos on public utility distribution customers' bills do not meet the statutory requirements of R.C. 4909.15(A)(4). Such costs are not costs of rendering public utility service. To impose CRES-created charges upon all distribution customers is unlawful because these charges are not related to the provision of distribution service. And Ohio law prohibits cross subsidization of competitive services (generation) by distribution service.<sup>12</sup>

**B. DP&L Should Modify Its Proposed Bill Format To Disclose More Details About How The Supplier And Delivery Charges Are Calculated.**

OCC believes that the following changes proposed by the Utility make bills more easily understood by customers: 1) price-to-compare references the Commission's "Energy Choice Ohio" website; 2) the bill format will divide charges between "Delivery"

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<sup>12</sup> R.C 4928.02(H).

and “Supply” 3) more customer usage data and other enhancements, and 4) larger bill with reader-friendly format.

But OCC believes that further improvements should be made to customers’ bills so that customers can recalculate their bill for accuracy. The proposed DP&L bill format provides a nice summary of the total delivery and supply charges; however, there is no detail provided for the subcomponents that make up each of the charges. Therefore, customers will be unable to recalculate the bill for accuracy as required by R.C. 4928.10. At a minimum, DP&L should disclose the monthly customer charge, the energy charges for the delivery of electricity, and the total costs for the various riders. In addition, DP&L should provide details concerning how the supplier charges are calculated. In the bill format that was proposed, the supplier charges were based on a set rate per kWh. However, supplier charges can also be based on a percentage discount off of the price to compare. DP&L should file a proposed bill format containing alternative types of supplier offers that it will likely be billing.

Concerning the price to compare message on the bill, DP&L is proposing to use the PUCO language verbatim from the PUCO Order in Case 12-3051-EL-COI. However, the PUCO rules also require a statement in the price to compare message that customers can contact the Utility to obtain a written explanation of the price-to-compare.<sup>13</sup> Customers can benefit from being able to obtain more information about the price to compare from the Utility. OCC has attached to this pleading a recommended bill format

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<sup>13</sup> Ohio Admin. Code 4901:1-10-22(B)(24).

which it recommends be adopted by the PUCO.<sup>14</sup> OCC's proposed bill format conforms to the PUCO rules.<sup>15</sup>

#### IV. CONCLUSION

OCC meets the standards for intervention in this proceeding. The PUCO should grant OCC's Motion to Intervene.

OCC recommends that the PUCO deny DP&L's request to defer \$500,000 in expenses and that the PUCO order DP&L to provide more detail in customers' bills that will allow them to recalculate their bills. If the PUCO chooses to consider the deferrals proposed by DP&L, further review is appropriate at this time. In that event, the PUCO must establish a procedural schedule that allows for parties to intervene, conduct discovery, file testimony, and have a hearing.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Joseph Serio

Joseph Serio (Reg. No. 0036959)  
Counsel of Record  
Assistant Consumers' Counsel \*

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<sup>14</sup> This format is similar, not identical to, the bill format proposed by OCC in the Retail Market Investigation Case (February 6, 2014).

<sup>15</sup> OCC's proposed bill format is a summary page only. In order to comply with the PUCO rules, detailed charges and other pertinent information would appear on subsequent pages.

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion to Intervene and Initial Comments* were served on the persons stated below via electronic transmission this 4<sup>th</sup> day of February 2015.

/s/ Joseph Serio  
Joseph Serio  
Assistant Consumers' Counsel

### **SERVICE LIST**

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Attorney Examiner:

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# OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

Page 1 of 2

Shop

## Billing Summary

Acct. # 100-000-000-0-0

**Total Amount Due Aug 26 \$56.40**

Cut out and keep this with you when shopping for a better rate.

For billing, outage or service inquiries call:

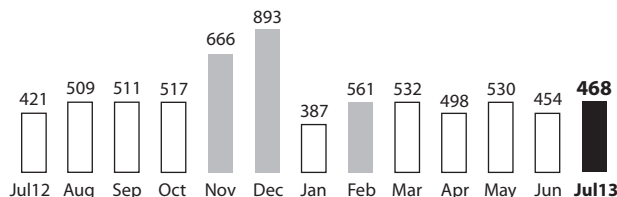
**1-800-555-5555**

Pay by phone: 1-800-555-5555

Required pursuant to commission rules and orders  
(See additional messages on pg. 2)

Message

History



Your average monthly kWh usage is **540**  
GRAY bars indicate usage above your monthly average

Usage

Month	Total kWh	Days	kWh/day	Cost/day	Avg Temp
Current	468	32	31	\$4.54	71° F
Previous	454	31	36	\$5.20	76° F
One year ago	421	30	37	\$4.94	75° F
Your total kWh for past 12 months is <b>6,479</b>					

Meter

Meter	Service Period		Meter Reading Detail			
Number	From	To	Previous	Code	Current	Code
999999999	06/28	07/29	15337	Actual	15805	Actual
Multiplier 1			Metered Usage 468 kWh			
Next scheduled read date should be between Aug 29 and Aug 31						

SUPPLY

## ABC Energy LLC

www.abccenergyllc.com  
1-800-555-5555

Your supplier price until [date] is

### Total Supply

Includes tax & other charges (see pg. 2)

6.50 ¢/kWh

**\$30.42**

Price-to-Compare

Your utility's Price-to-Compare\* is  
You are currently paying

7.30 ¢/kWh

**6.50 ¢/kWh**

\* For **tariff 820**, in order for you to save money off of your utility's supply charges, a supplier must offer you a price lower than the utility's price of x.xx cents per kWh for the same usage that appears on this bill. To review available competitive supplier offers, visit the Public Utilities Commission of Ohio's "Energy Choice Ohio" website at [www.energychoice.ohio.gov](http://www.energychoice.ohio.gov). Customers can obtain a written explanation of the price-to-compare by calling the utility at the number listed below.

DELIVERY

## OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

### Total Delivery

Includes tax & other charges (see pg. 2)

**\$25.98**

Summary

Amount due at last billing	\$55.18
Payment on [date] - Thank you	55.18
Previous balance due	0.00
<b>Total supply charges</b>	<b>30.42</b>
<b>Total delivery charges</b>	<b>25.98</b>
<b>Total amount due on Aug 26</b>	<b>\$56.40</b>

Please tear on dotted line

Return bottom portion with your payment

# OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

Account Number  
**100-000-000-0-0**  
CY 21

<b>\$56.40</b>	\$ _____
Total Amount Due	Amount Enclosed
<b>Due Aug 29, Pay \$57.64 After This Date</b>	

Send inquiries to:  
PO BOX 12345  
ANYTOWN, OH 99999-9999  
R-10-9999999999

Service Address:  
OHIO GS1 BILL READY  
123 ANY STREET  
ANY CITY, OH 99999-9999

The Neighbor to Neighbor program helps disadvantaged customers pay their electric bill. I want to help. My payment reflects my gift of \$ \_\_\_\_\_

Make check payable and send to:  
OHIO UTILITY CO  
PO BOX 12345  
ANYTOWN OH 99999-9999

# OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

Page 1 of 2

Shop

## Billing Summary

Acct. # 100-000-000-0-0

**Total Amount Due Aug 26 \$60.14**

Cut out and keep this with you when shopping for a better rate.

For billing, outage or service inquiries call:

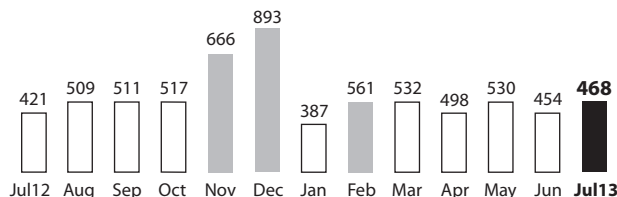
**1-800-555-5555**

Pay by phone: 1-800-555-5555

Required pursuant to commission rules and orders  
(See additional messages on pg. 2)

Message

History



Your average monthly kWh usage is **540**  
GRAY bars indicate usage above your monthly average

Usage

Month	Total kWh	Days	kWh/day	Cost/day	Avg Temp
Current	468	32	31	\$4.54	71° F
Previous	454	31	36	\$5.20	76° F
One year ago	421	30	37	\$4.94	75° F
Your total kWh for past 12 months is <b>6,479</b>					

Meter

Meter	Service Period		Meter Reading Detail			
Number	From	To	Previous	Code	Current	Code
999999999	06/28	07/29	15337	Actual	15805	Actual
Multiplier 1			Metered Usage 468 kWh			
Next scheduled read date should be between Aug 29 and Aug 31						

SUPPLY

## OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

Your supplier price until [date] is

7.30 ¢/kWh

### Total Supply

**\$34.16**

Includes tax & other charges (see pg. 2)

Price-to-Compare

Your utility's Price-to-Compare\* is  
You are currently paying

7.30 ¢/kWh

**7.30 ¢/kWh**

\* For **tariff 820**, in order for you to save money off of your utility's supply charges, a supplier must offer you a price lower than the utility's price of x.xx cents per kWh for the same usage that appears on this bill. To review available competitive supplier offers, visit the Public Utilities Commission of Ohio's "Energy Choice Ohio" website at [www.energychoice.ohio.gov](http://www.energychoice.ohio.gov). Customers can obtain a written explanation of the price-to-compare by calling the utility at the number listed below.

DELIVERY

## OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

### Total Delivery

**\$25.98**

Includes tax & other charges (see pg. 2)

Summary

Amount due at last billing	\$55.18
Payment on [date] - Thank you	55.18
Previous balance due	0.00
<b>Total supply charges</b>	<b>34.16</b>
<b>Total delivery charges</b>	<b>25.98</b>
<b>Total amount due on Aug 26</b>	<b>\$60.14</b>

Please tear on dotted line

Return bottom portion with your payment

## OHIO Utility Co.

www.ohioutilityco.com  
1-800-555-5555

Account Number  
**100-000-000-0-0**  
CY 21

<b>\$60.14</b>	\$ _____
Total Amount Due	Amount Enclosed
<b>Due Aug 29, Pay \$61.38 After This Date</b>	

Send inquiries to:

PO BOX 12345

ANYTOWN, OH 99999-9999

R-10-9999999999

Service Address:

OHIO GS1 BILL READY

123 ANY STREET

ANY CITY, OH 99999-9999

Make check payable and send to:

OHIO UTILITY CO

PO BOX 12345

ANYTOWN OH 99999-9999

The Neighbor to Neighbor program helps disadvantaged customers pay their electric bill. I want to help. My payment reflects my gift of \$ \_\_\_\_\_

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 14-2042-EL-AAM, 14-2043-EL-UNC**

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