

In the Matter of the Regulation of the)
Purchased Gas Adjustment Clauses)
Contained within the Rate Schedules of) Case No. 15-218-GA-GCR
Duke Energy Ohio, Inc. and Related)
Matters)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this gas cost recovery ("GCR") case, where the reasonableness and prudence of the costs of the natural gas charged to customers and the gas purchasing practices and policies of the utility are at issue. OCC is filing on behalf of all the approximately 380,000 residential utility consumers of Duke Energy Ohio, Inc. ("Duke" or "the Utility").

The Public Utilities Commission of Ohio (“PUCO”) should grant OCC’s intervention in the above-captioned proceeding. The reasons for granting OCC’s Motion are further set forth in the attached Memorandum in Support.

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

Respectfully submitted,

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/s/ Joseph P. Serio

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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MEMORANDUM IN SUPPORT

Under R.C. Chapter 4911, the OCC moves to intervene to represent the interests of all the approximately 380,000 residential natural gas utility customers of Duke. The interests of residential natural gas customers may be “adversely affected” by this GCR case, under the intervention standard in R.C. 4903.221. This element of the intervention standard in R.C. 4903.221 is satisfied because consumers may be adversely affected by a PUCO determination of the reasonableness of Duke’s gas procurement policies and practices. And consumers may be adversely affected by any determination related to costs passed through the GCR clause of Duke during the audit period.

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 lies in preventing excessive or unjust charges for residential natural gas commodity service and assuring that the needs of Duke's residential customers are met. 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 consumers will include advancing the position that Duke's rates should be no more than what 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 this 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 this 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 residential utility consumer advocate, OCC has a very real and substantial interest in this case. The nature and extent of OCC's interest lies in

preventing excessive or unjustified charges for residential natural gas commodity service and assuring that needs of Duke's residential customers are met.

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 consumers. 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.²

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 Duke's residential consumers, the PUCO should grant OCC's Motion to Intervene.

² See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

Respectfully submitted,

BRUCE J. WESTON
CONSUMERS' COUNSEL

/s/ Joseph P. Serio

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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 service, this 16th day of June 2015.

/s/ 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.