

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application for)	
Establishment of a Reasonable)	
Arrangement Between Presrite)	Case No. 17-1981-EL-AEC
Corporation and the Cleveland Electric)	
Illuminating Company)	

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

In this case, Presrite Corporation ("applicant" or "mercantile customer") seeks approval of a reasonable arrangement that would reduce the amount it pays for electric service—and potentially increase charges to the residential customers of the Cleveland Electric Illuminating Company ("Cleveland Electric" or the "Utility"). In this type of case, the PUCO considers various factors, including a balance between the benefits of economic development programs and the cost to Ohioans who pay to subsidize the programs.

The ratemaking effect of the application filed in this case (the "Application") is that Cleveland Electric would collect less money from the applicant. Under this circumstance, the utility would typically collect more money from other customers to make up for rate discount.

Under Ohio Adm. Code 4901:1-38-05(F), the Office of the Ohio Consumers' Counsel ("OCC") and other interested parties may intervene and file comments and objections to the Application. The Public Utilities Commission of Ohio (the "PUCO") should grant OCC's motion to intervene in this case on behalf of Cleveland Electric's 660,000 residential consumers.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

The Consumers' Counsel has legislative authority to represent residential utility consumers in Ohio under 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 consumers meet this legislative standard because the mercantile customer's proposed electricity discounts will likely be subsidized by Cleveland Electric's other customers. 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.

The Consumers' Counsel meets these criteria. First, the nature and extent of OCC's interest are in representing residential consumers in this case where a mercantile

customer's rate discount will likely be paid back to Cleveland Electric through other customers' electric bills. This interest is different than that of any other party.

Second, OCC will advocate for residential consumers by advancing the position that rates should be no more than what is reasonable and permissible under Ohio law. The Consumers' Counsel's position is therefore directly related to the merits of the proposal in this case.

Third, our intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will contribute to the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to fully developing and equitably resolving the factual issues. Our intervention will provide the PUCO with information relating to the interests of the residential consumers that Cleveland Electric likely will charge to fund rate discounts to the mercantile customers.

OCC also satisfies the intervention criteria in the Ohio Administrative Code, which are subordinate to the criteria 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 real and substantial interest in this case where the outcome could increase the rates that residential customers pay.

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), which OCC has already addressed, and which 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 because it has been uniquely designated as the statutory representative of Ohio's residential utility consumers.¹ That interest is different from, and not represented by, any other entity in Ohio.

Moreover, in deciding two consolidated appeals regarding OCC's right to intervene, the Supreme Court of Ohio has confirmed that "intervention ought to be liberally allowed."² In those cases, OCC explained in its motion to intervene that the proceeding could negatively impact residential consumers, and OCC established that the interests of consumers would not be represented by existing parties.³ Because there was no evidence disputing OCC's position, nor any evidence that OCC's intervention would unduly delay the proceedings, the Supreme Court found that the PUCO could not deny OCC the right to intervene.⁴

The Ohio Consumers' Counsel meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and Ohio Supreme Court precedent for intervention. On behalf of Cleveland Electric's residential consumers, the PUCO should grant this motion to intervene.

¹ R.C. Chapter 4911.

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

³ *Id.* ¶¶ 18-20.

⁴ *Id.* ¶¶ 13-20.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Intervene has been served upon the below-named persons via electronic transmission this 19th day of September, 2017.

/s/ Christopher Healey
Christopher Healey
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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 Healey, Christopher Mr.