

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke     )  
Energy Ohio, Inc. to Adjust Rider DR-IM    ) Case No. 18-0838-EL-RDR  
for 2017 Grid Modernization Costs.        )

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

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case that involves investigating the amount Duke Energy Ohio, Inc. ("Duke") consumers will be charged for modernizing the electric grid relied upon to deliver electric service to their homes.<sup>1</sup> OCC is filing on behalf of the 629,000 residential electric customers of Duke. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445) Counsel of Record  
Bryce McKenney (0088203)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Telephone [Etter]: (614) 466-7964  
Telephone [McKenney]: (614) 466-9585  
terry.etter@occ.ohio.gov  
bryce.mckenney@occ.ohio.gov  
(Both will accept service via email)

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

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**MEMORANDUM IN SUPPORT**

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The outcome of this case will affect the charges that Duke’s residential customers must pay to maintain electric service to their homes. Duke proposes to charge its residential electric customers \$3.99 per month through Rider DR-IM,<sup>2</sup> which is \$0.27 per month less than customers currently pay through the rider.<sup>3</sup> OCC has authority under law to represent the interests of all of Duke’s 629,000 residential electric customers, 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 that impacts how much they will pay for electric service to their homes. 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;

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<sup>2</sup> See Application (June 29, 2018), Direct Testimony of Douglas J. Heitkamp at 10.

<sup>3</sup> See Duke Tariff P.U.C.O. Electric No. 19, Sheet No. 104.11.

- (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 proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing Duke's residential customers in this case who are asked to pay the charges associated with Duke's efforts to modernize its grid, and those efforts will ultimately affect the price of residential electric service. This interest is different from that of any other party and especially different from 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 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 the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to 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 involving the amount residential consumers will pay for electric service.

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 “[t]he 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.<sup>4</sup>

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<sup>4</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

OCC meets the criteria set forth in R.C. 4903.221 and 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 WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445) Counsel of Record  
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65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Telephone [Etter]: (614) 466-7964  
Telephone [McKenney]: (614) 466-9585  
terry.etter@occ.ohio.gov  
bryce.mckenney@occ.ohio.gov  
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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, this 10<sup>th</sup> day of August 2018.

/s/ Terry L. Etter  
Terry L. Etter  
Assistant Consumers' Counsel

**SERVICE LIST**

William.wright@ohioattorneygeneral.gov  
Elizabeth.Watts@duke-energy.com  
Rocco.Dascenzo@duke-energy.com

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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Etter, Terry Mr.