

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|---|---|-------------------------|
| In the Matter of the Commission's |) | |
| Consideration of Solutions Concerning the |) | |
| Disconnection of Gas and Electric Service |) | Case No. 18-1204-GE-UNC |
| in Winter Emergencies for the 2018-2019 |) | |
| Winter Heating Season. |) | |

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this case where the Public Commission of Ohio ("PUCO") has opened a case to consider solutions concerning the fate of customers who may face disconnection of their gas and electric service in the 2018-2019 winter heating season. OCC is filing on behalf of all the approximately 4.2 million residential electric utility customers and 3.6 million residential gas utility customers of Ohio who will be impacted by the decisions made in this case. The reasons the PUCO should grant 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,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Amy Botschner-O'Brien
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MEMORANDUM IN SUPPORT

This case was opened to consider solutions concerning the fate of customers who may face disconnection of gas and electric service during winter emergencies in the 2018-2019 winter heating season. This is an issue of great significance for Ohioans' safety and well-being. Rules of the Public Utilities Commission of Ohio ("PUCO"), when followed, provide some protection for consumers regarding disconnection of their utility service. OCC has authority under law² to represent the interests of approximately 4.2 million residential electric utility customers and 3.6 million residential gas utility customers of Ohio who will be affected by decisions made in this case.

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 a proceeding that considers solutions for customers who may face service disconnection during winter emergencies in the upcoming winter heating season. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

² R.C. Chapter 4911.

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 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 the residential customers of Ohio gas and electric utilities in this case involving winter heating disconnection issues. This interest is different from that of any other party and especially different from that of the electric utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the PUCO's rules must protect consumers from disconnection of their gas and electric utility services during winter emergencies. 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 where the PUCO will consider solutions for the disconnection of gas and electric service for winter emergencies for the 2018-2019 winter heating season.

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. OCC has been uniquely 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 (“Court”) 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.³

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 WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Amy Botschner-O'Brien
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³ 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 31st day of August 2018.

/s/ Amy Botschner-O'Brien
Amy Botschner-O'Brien
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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 Botschner-O'Brien, Amy Ms.