

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)	
East Ohio Gas Company dba Dominion)	Case No. 18-1589-GA-RDR
Energy Ohio for an Adjustment to its)	
Demand Side Management Rider Rate.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Dominion Energy Ohio ("Dominion") seeks authority to charge customers \$4 million for natural gas energy efficiency programs through its demand side management ("DSM") rider. OCC is filing on behalf of Dominion's 1.1 million residential utility customers.¹ The Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

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

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Dominion seeks to charge residential and other customers \$4 million for its natural gas energy efficiency programs through its DSM rider. From 2008 to 2016, Dominion updated the rider to reflect annual expenditures within the \$4 million limit and to account for any prior-year over or under expenditures. Last year, however, the PUCO ordered Dominion to provide more transparency by filing an annual application that must be reviewed and approved by the PUCO.²

In addition, Dominion is requesting that the PUCO establish a 45-day automatic-approval process, whereby an application is deemed approved by operation of law on the 46th day after filing unless the PUCO rejects or modifies the application or suspends the 45-day automatic process. OCC has authority under law to represent the interests of Dominion's 1.1 million residential utility 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.

² *In re Audit of the Demand Side Management Rider of the E. Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 17-1372-GA-RDR, Finding & Order ¶ 14 (Aug. 2, 2017) (“The Commission finds that an annual application process should be utilized to facilitate the review of the rider and audit each year.”).

The interests of Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding which may result in charges to consumers for natural gas energy efficiency programs. This is especially concerning in conjunction with Dominion's request that these charges be automatically approved—that is, approved without any affirmative PUCO action. That proposal is a bad idea for consumers. 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 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 Dominion in this case involving a change to the DSM rider rate and a request to move the rider application review to an automatic approval process. 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 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. In order to advance this position, OCC must

be permitted to intervene and determine how the proposed rate was calculated and to comment on the appropriateness of using an automatic approval process to modify annual rider rates. 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 residential utility rates are affected by a proposed change in the DSM rider rate and where Dominion is requesting to change the application review and approval process, which may result in rates that are not just and reasonable.

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 already has 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 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 (“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.

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

Respectfully submitted,

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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 19th day of December 2018.

/s/ Christopher Healey
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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 Healey, Christopher Mr.