

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Motion to Modify the     )  
Exemption Granted to the East Ohio Gas     ) Case No. 18-1419-GA-EXM  
Company d/b/a Dominion Energy Ohio.     )

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

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The Public Utilities Commission of Ohio (“PUCO”) has asked OCC to refile in this new case its motion to protect Ohio consumers who are being ripped-off by energy marketers.<sup>1</sup> In advance of that refiling, OCC moves to intervene in this case to protect consumers from unreasonably (and some outrageously) high natural gas prices that some marketers charge to residential customers through Dominion Energy Ohio’s (“Dominion”) Monthly Variable Rate.<sup>2</sup> Some charges to consumers have exceeded 200% and even 300% of the market price of natural gas, as reflected in Dominion’s standard choice offer.

OCC is moving to intervene on behalf of residential utility consumers in the Dominion area. OCC files this motion in an abundance of caution, as the PUCO may intend that OCC already is a party.

The reasons the PUCO should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

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<sup>1</sup> OCC’s motion to modify Dominion’s exemption was originally filed in Case No. 12-1842-GA-EXM on March 9, 2018. In an Entry issued September 13, 2018 (at ¶17), the PUCO asked OCC to refile its motion in this new case.

<sup>2</sup> 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/ Terry L. Etter

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**MEMORANDUM IN SUPPORT**

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This case is about protecting consumers from unreasonably and outrageously high natural gas prices that some marketers charge to Dominion’s residential customers through the Monthly Variable Rate. OCC has authority under law to represent the interests of Dominion’s 1.3 million residential utility customers, pursuant to R.C. Chapter 4911. OCC files this motion in an abundance of caution, as the PUCO may intend that OCC already is a party.

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 may be “adversely affected” by this case. Consumers may be adversely affected especially if they are unrepresented in a proceeding where the issue involves protecting consumers from Dominion’s Monthly Variable Rate. That rate has resulted in some unreasonable and outrageous charges to Dominion’s residential 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 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 Dominion's residential customers in this case involving rates that may be charged to residential consumers for natural gas. This interest is different from that of any other party and especially different from that of the utility and the energy marketers.

Second, OCC's advocacy for residential customers will include, among other things, 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 where the issues involve Dominion's Monthly Variable Rate that has resulted in unreasonable and outrageous charges to Dominion's residential customers. Some charges to consumers have exceeded 200% and even 300% of the market price of natural gas, as reflected in Dominion's standard choice offer.

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 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.<sup>3</sup>

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.

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

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Terry L. Etter

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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 1<sup>st</sup> day of February 2019.

/s/ Terry L. Etter

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/1/2019 4:54:30 PM**

**in**

**Case No(s). 18-1419-GA-EXM**

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.