

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc. for) Case No. 19-0029-GA-ATA
Approval of a Tax Savings Credit Rider.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where Vectren Energy Delivery of Ohio, Inc. ("Vectren" or the "Utility") proposes to pass back to customers the savings resulting from the Tax Cuts and Jobs Act of 2017 ("federal tax cuts").¹ OCC is filing on behalf of the 298,000 residential utility customers of Vectren. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion are further set forth in the attached memorandum in support.

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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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The federal tax cuts lowered the corporate income tax rate that businesses, like Vectren, pay. Customers pay for utilities' taxes through their utility bills, so customers should receive the benefit of this tax law in the form of lower utility bills. In this case, Vectren proposes to pass back to customers the benefits of the federal tax cuts. This includes \$2.1 million in normalized excess accumulated deferred income taxes ("EDIT"), over \$20 million in non-normalized EDIT, and at least \$3.4 million in tax savings that they would have received beginning January 1, 2018 had the effects of the new tax law been implemented as of that date. OCC has authority under law to represent the interests of all the 298,000 residential utility customers of Vectren 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 customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding where the Utility proposes the manner in which those customers will receive the benefits of the Tax Cuts and Jobs Act of 2017. 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 Vectren involving lowering customers' rates to reflect the benefits of the federal tax cuts. 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, among other things, advancing the position that customers should pay lower utility bills as a result of the federal tax cuts. OCC's position is therefore directly related to the merits of this case, which 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 decide how customers will receive the benefits of the federal tax cuts.

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.²

² 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, 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,

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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 8th day of May 2019.

/s/ 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.