

In the Matter of the Application of )  
Northeast Ohio Natural Gas Corp. for ) Case No. 20-146-GA-ATA  
Approval of an Income Tax Credit )  
Mechanism Rider. )

The Public Utilities Commission of Ohio (“PUCO”) initiated case 18-0047-AU-COI to determine how best to provide Ohio consumers with the full benefit of the federal tax cuts, and directed all rate-regulated utility companies to file an application “not for an increase in rates,” in a newly initiated proceeding.<sup>1</sup> The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene where Northeast Ohio Natural Gas Corp. (“Northeastern”) proposes to return the benefits of the Tax Cuts and Jobs Act of 2017 to its natural gas customers.<sup>2</sup>

One of OCC's key issues for Ohio consumers is that their electricity rates should be reduced since the taxes the utilities are paying to the federal government are reduced. The PUCO should guarantee that natural gas consumers receive the full benefit of the tax cuts through reductions in Northeastern's rates now.

<sup>2</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

OCC is filing on behalf of Northeastern's approximately 17,500 residential gas utility customers.<sup>3</sup> The PUCO should grant OCC's motion to intervene for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ William J. Michael  
William J. Michael (0070921)  
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<sup>3</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**MEMORANDUM IN SUPPORT**

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In this case, Northeastern proposes to return the tax savings from the federal tax cuts to its customers through its Tax Credit Mechanism Rider. The PUCO should thoroughly examine Northeastern’s proposal to safeguard Ohio consumers so that they receive the full benefit of the tax cuts as soon as possible.

OCC has statutory authority to represent the interests of Northeastern’s residential gas utility customers 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 that will determine the benefits should receive from the federal tax cuts. 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 Northeastern in this case where the Utility has a proposal to pass back savings from the federal tax cuts to consumers. This interest is different from that of any other party, and especially different from that of Northeastern whose advocacy includes the financial interest of its shareholders. Additionally, the PUCO specifically requested input from "interested stakeholders" when evaluating any utility proposal to comply with its tax cut investigation<sup>4</sup> As a representative of the residential customers of Northeastern that will be affected by the outcome of this case, the OCC is an "interested stakeholder."

Second, OCC's advocacy for residential customers will include advancing the position that the federal tax cut savings should be fully flowed through to Ohio consumers through rate reductions without delay. 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

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<sup>4</sup> Finding and Order (October 24, 2018) at 18.

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 determine how to return the benefits of the Tax Cuts and Jobs Act of 2017 to customers.

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.

Further, 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>5</sup>

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<sup>5</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, Ohio Adm. Code 4901-1-11, and the precedent established by the Court for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

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Ohio Consumers' Counsel

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William J. Michael (0070921)  
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Assistant Consumers' Counsel

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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 20th day of March 2020.

/s/ William J. Michael  
William J. Michael  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Motion Motion to Intervene by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Michael, William J.