

In the Matter of the Application of)
Northeast Ohio Natural Gas Corp. For) Case No. 20-1427-GA-ALT
Approval of Alternative Regulation.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where Northeast Ohio Natural Gas Corp. ("NEO Gas" or the "Utility") seeks to charge residential customers an additional 3% to their total bill as a result of the utility's acquisition of an intrastate natural gas pipeline.¹ The Utility has filed a prefilings notice of its intent to file an application for an increase in rates associated with the pipeline acquisition. If the increased charges are approved by the PUCO, they would be implemented as a supplemental infrastructure charge on customers' bills.² OCC is filing on behalf of the 28,000 residential utility customers of NEO Gas. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion are further set forth in the attached memorandum in support.

² *Id.*

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien
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Northeast Ohio Natural Gas Corp. seeks to charge each of its 28,000 residential customers an additional \$2.07 per month to a typical residential customer's monthly bill, which is approximately a 3% increase to the total bill amount.³ This additional charge is proposed because of Northeast's acquisition of the Orwell Trumbull Pipeline Company. The utility's application will request approval of an alternative rate plan to charge all customers, including residential customers, for costs associated with the acquisition of the pipeline company.⁴ OCC has authority under law to represent the interests of all the 28,000 residential utility customers of NEO Gas, 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 seeks to charge them a 3% increase in their monthly bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

³ See Notice of Intent to File an Application for an Increase in Rates, PFN Exhibit 2B (Aug. 26, 2020).

⁴ *Id.*; see also PFN Exhibit 3 (proposed tariff schedules).

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 NEO Gas involving proposed charges for the Utility's pipeline acquisition. This interest is different from that of any other party and especially different from 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 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, 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 NEO Gas seeks to charge each residential customer an approximate additional \$2.07 per month to their monthly bill.

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.⁵

⁵ 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,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien
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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 23rd day of September 2020.

/s/ Amy Botschner O'Brien
Amy Botschner O'Brien
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 Botschner O'Brien, Amy