**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio for Authority to Adjust its Distribution Replacement Rider Charges. | ))))) | Case No. 24-720-GA-RDR |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case where Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio (“CenterPoint”) is seeking to increase charges to residential consumers under its Distribution Replacement Rider (“distribution rider charge”).[[1]](#footnote-2) CenterPoint uses the distribution rider charge to charge consumers for costs to replace, retire, or improve various aspects of its distribution infrastructure. CenterPoint’s total annual revenue requirement for the distribution rider charge adjustment will be nearly $56 million.[[2]](#footnote-3) This includes incremental property taxes, prior year annualized property tax expense true-ups, annualized depreciation expenses, and “incremental costs associated with assuming ownership of service lines.”[[3]](#footnote-4) CenterPoint calculates that residential consumers will pay a distribution rider charge of $12.65 per customer per month distribution rider charge atop their bills if its application is approved.[[4]](#footnote-5) This is a 29% increase from the prior rate of $9.85, approved in CenterPoint's previous distribution rider charge case, 23-273-GA-RDR.[[5]](#footnote-6)

OCC is filing on behalf of the over 300,000 residential utility consumers of CenterPoint. The reasons the Public Utilities Commission of Ohio (“PUCO”) should grant OCC’s Motion to Intervene are further set forth in the attached Memorandum in Support.

Respectfully submitted,

Maureen R. Willis (0020847)

Ohio Consumers’ Counsel

*/s/ John Finnigan*

John Finnigan (0018689)

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**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio for Authority to Adjust Its Distribution Replacement In the Matter of the Application. | ))))) | Case No. 24-720-GA-RDR |

**MEMORANDUM IN SUPPORT**

 CenterPoint is seeking to increase charges to residential consumers under its distribution rider charge.[[6]](#footnote-7) CenterPoint uses the distribution rider charge to charge consumers for costs to replace, retire, or improve various aspects of its distribution infrastructure. CenterPoint’s total annual revenue requirement for the distribution rider adjustment will be nearly $56 million..[[7]](#footnote-8) This includes incremental property taxes, prior year annualized property tax expense true-ups, annualized depreciation expenses, and “incremental costs associated with assuming ownership of service lines.”[[8]](#footnote-9) CenterPoint calculates that residential consumers will pay a distribution rider charge rate of $12.65 per customer per month atop their bills if its application is approved.[[9]](#footnote-10) This is a 29% increase from the prior rate of $9.85, approved in CenterPoint’s previous distribution rider charge case.[[10]](#footnote-11)

 OCC has authority under law to represent the interests of all the over 300,000 residential utility consumers of CenterPoint under R.C. Chapter 4911. R.C. 4903.221 provides the standard for permissive intervention – where the PUCO may exercise discretion in ruling upon a party’s motion to intervene. That law 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, especially if the consumers were unrepresented in a proceeding where CenterPoint proposes to increase how much consumers pay under the distribution rider charge. It is imperative that residential consumers be afforded representation in this matter through OCC’s participation. OCC will independently analyze CenterPoint’s testimony and exhibits to ensure the makeup and calculations of the distribution rider charge adjustment are reasonable and fair to residential consumers. Thus, this element of the permissive 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 permissive intervention:

(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 proceeding; and

(4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC’s interest is representing the residential consumers of CenterPoint in this case involving CenterPoint’s proposal to increase its distribution rider charge. 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 consumers 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. In this case, that involves reviewing the makeup of the distribution rider charge expenses, the depreciation and tax calculations, and analyzing the distribution rider adjustment with an eye toward residential consumers’ interests. 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. Delay in and of itself does not mean that intervention should be denied. The key consideration is whether the intervention will cause “undue delay.” Here OCC’s intervention will not cause undue delay. This matter was initiated with the filing of CenterPoint's application and witnesses’ testimony on May 1, 2024. Though a procedural schedule has already been set, the matter is still in its earliest stages. Thus, this case is ripe for intervention and there will be no undue delay in granting OCC’s intervention.

 OCC will attempt to avoid duplicative discovery in the proceeding. The issues OCC will raise fall clearly within the scope of the proceeding focused on reviewing and adjusting CenterPoint’s distribution rider charge. In addition, OCC will also use its best efforts to comply with any procedural schedule that the PUCO may adopt for this proceeding.

Further, OCC, with its longstanding expertise and experience in PUCO proceedings and consumer protection advocacy, will duly allow for the efficient processing of the case with consideration of the public interest. OCC regularly intervenes and participates in cases regarding rider adjustments, including past cases of CenterPoint’s distribution rider charge rate adjustments.[[11]](#footnote-12) There will be no prejudice to the PUCO Staff and CenterPoint in granting OCC intervention.

Fourth, OCC’s intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC is purely focused on the interests of residential consumers and the large affect utility companies and matters before the Commission have upon those consumers. OCC’s interest in protecting residential consumers will lead it to fully and carefully examine issues regarding the makeup and calculation of CenterPoint’s proposed rate adjustment. 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 O.A.C. 4901-1-11(A) which sets the standard for *intervention as of right*, mirroring Ohio Civil Rule 24(A). Under O.A.C. 4901:1-11(A)(2) a person shall be granted intervention as of right if it has a real and substantial interest in a proceeding and is “so situated that disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person’s interest is adequately represented by existing parties.”

As the statutory advocate for residential utility consumers, OCC has a very real and substantial interest in this case where CenterPoint’s distribution rider charge is being reviewed and adjusted, which will have resulting impact on residential consumers through their monthly gas bills. Disposition of this proceeding may, as a practical matter, impair or impede OCC’s ability to protect that interest where the interest is not adequately represented by existing parties - the PUCO Staff and the utility. OCC should be granted intervention as of right under O.A.C. 4901-1-11(A)(2).

In addition, OCC meets the permissive intervention criteria of O.A.C. 4901-1-11(B)(1)-(4). These criteria mirror the permissive intervention criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

O.A.C. 4901-1-11(B)(5) states that the PUCO shall consider “(t)he 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 has been uniquely designated as the state representative of the interests of Ohio’s residential utility consumers. OCC’s interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio 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.[[12]](#footnote-13)

OCC meets the criteria set forth in R.C. 4903.221, O.A.C. 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the PUCO should grant OCC’s Motion to Intervene.

Respectfully submitted,

Maureen R. Willis (0020847)

Ohio Consumers’ Counsel

*/s/ John Finnigan*

John Finnigan (0018689)

Counsel of Record

 Thomas J. Brodbeck (0093920)

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 (Will accept service via email)

**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of the foregoing Motion to Intervene has been served electronically upon those persons listed below this 20th day of May 2024.

 */s/ John Finnigan*

 John Finnigan

 Assistant Consumers’ Counsel

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

**SERVICE LIST**

|  |  |
| --- | --- |
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1. *See* R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. [↑](#footnote-ref-2)
2. *In the Matter of the Application of Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio for Authority to Adjust Its Distribution Replacement Riders,* Case No. 24-720-GA-RDR, Application (May 1, 2024) at 51, Ex. MJJ-1. [↑](#footnote-ref-3)
3. *Id.* at45-46, Ex. CEOH 2.0 at 7-8. [↑](#footnote-ref-4)
4. *Id.* at 87, Ex. KJT-2. [↑](#footnote-ref-5)
5. *In the Matter of the Application of Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio for Authority to Adjust Its Distribution Replacement Rider Charges*, Case No. 23-273-GA-RDR, Application (May 1, 2023) at 90, Ex. KJT-2 at 3. [↑](#footnote-ref-6)
6. *See* R.C. Chapter 4911, R.C. 4903.221 and O.A.C. 4901-1-11. [↑](#footnote-ref-7)
7. Application (May 1, 2024) at 51, Ex. MJJ-1. [↑](#footnote-ref-8)
8. *Id.* at 45-46, CEOH Ex. 2.0 at 7-8. [↑](#footnote-ref-9)
9. *Id.* at 87, Ex. KJT-2. [↑](#footnote-ref-10)
10. *In the Matter of the Application of Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio for Authority to Adjust Its Distribution Replacement Rider Charges,* Case No. 23-273-GA-RDR, Application (May 1, 2023) at 90, Ex. KJT-2 at 3. [↑](#footnote-ref-11)
11. *See* *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an adjustment to Its Energy Efficiency Funding Rider* Rate, Case No. 20-640-GA-RDR, Finding and Order (June 17, 2020) at¶ 6 (“. . . the motion to intervene is reasonable and should be granted.”); *In the matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Adjust Its Distribution Replacement Rider Charges*, Finding and Order (Aug. 28, 2019) at *¶* 10 (“. . . the motion to intervene is reasonable and should be granted.”); *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an Adjustment to Its Energy Efficiency Funding Rider Rate*, Finding and Order (June 19, 2019) at ¶ 6 (“. . . the motion to intervene is reasonable and should be granted.”); *In the Matter of the Application of Vectren Energy Delivery of Ohio*, *Inc. for Authority to Adjust Its Distribution Replacement Rider*, Case No. 18-762-GA-RDR, Entry (July 27, 2018) at *¶* 6 (“. . . OCC's motion to intervene is reasonable and should be granted.”). [↑](#footnote-ref-12)
12. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20. [↑](#footnote-ref-13)