**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Complaint and Investigation of Staff of the Public Utilities Commission of Ohio,  Complainant,  v.  Frontier North Inc.,  Respondent | )  )  )  )  )  )  )  )  )  )  ) | Case No. 19-1582-TP-COC |

**MOTION TO INTERVENE**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene, on behalf of residential consumers,[[1]](#footnote-2) in this complaint against Frontier North telephone company that the Public Utilities Commission of Ohio (“PUCO”) initiated because of “Frontier’s failure to provide available, adequate, and reliable BLES to its customers across the entire state of Ohio.”[[2]](#footnote-3) OCC commends the PUCO for taking this regulatory action in the public interest. OCC has become concerned that Frontier views the use of bill credits (to compensate consumers for inadequate service) as a substitute for the adequate service that Frontier is required to provide. That is wrong. Consumers need adequate phone service for their personal, business and safety use.

The monthly customer credits required by the PUCO’s rules when telephone companies like Frontier fail to restore basic service in a timely manner[[3]](#footnote-4) are little consolation to consumers if their health and well-being are endangered because they lack phone service. Bill credits to customers are not intended by the state to excuse inadequate phone service. This PUCO complaint should resolve for Frontier that inadequate phone service is not acceptable for Ohioans. The reasons the PUCO should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Angela O’Brien*

Angela O’Brien (0097579)

Counsel of Record

David Bergmann (0009991)

Terry Etter (0067445)

Assistant Consumers’ Counsel

# Office of the Ohio Consumers’ Counsel

# 65 East State Street, 7th Floor

# Columbus, Ohio 43215-4213

Telephone [O’Brien]: (614) 466-9531

Telephone [Bergmann] (614) 466-9569

Telephone [Etter]: (614) 466-7964

Angela.obrien@occ.ohio.gov

David.bergmann@occ.ohio.gov

Terry.etter@occ.ohio.gov

(willing to accept service by e-mail)

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Complaint and Investigation of Staff of the Public Utilities Commission of Ohio,  Complainant,  v.  Frontier North Inc.,  Respondent | )  )  )  )  )  )  )  )  )  )  ) | Case No. 19-1582-TP-COC |

## MEMORANDUM IN SUPPORT

On August 14, 2019, the PUCO Staff filed a Complaint containing numerous allegations regarding Frontier’s failure to provide available, adequate, and reliable basic telephone service to Ohio customers.[[4]](#footnote-5) PUCO Staff asserts that Frontier has repeatedly failed to meet service quality conditions that the PUCO approved as part of a stipulation in Case No. 09-0454-TP-ACO involving the transfer of ownership and control of Verizon North, Inc. to Frontier.[[5]](#footnote-6) The Complaint also alleges that Frontier routinely fails to repair telephone service outages in a timely manner in violation the PUCO’s rules.[[6]](#footnote-7) Frontier’s alleged violations adversely impact customers’ access to voice and emergency 9-1-1 services, which threatens public safety and welfare.[[7]](#footnote-8)

OCC has authority under law to represent the interests of all of Frontier’s residential telephone 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 Frontier’s residential customers may be “adversely affected” by this case, especially if those customers were unrepresented in a proceeding where the PUCO is investigating whether Frontier is providing Ohioans adequate and reliable telephone service. 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 Frontier’s residential customers in this case where Frontier has allegedly jeopardized public safety by failing to provide customers with available, adequate, and reliable telephone service. This service may be provided in rural areas of Ohio where there are no other options for telephone service. This interest is different from that of Frontier, whose advocacy includes the financial interest of stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that Frontier must provide safe, adequate, and reliable telephone service to Ohioans. OCC’s position is therefore directly related to the merits of this case 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 the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider to equitably and lawfully decide 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 that involves allegations that Frontier does not provide safe, adequate, and reliable telephone service to residential 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 “[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 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.[[8]](#footnote-9)

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/ Angela O’Brien*

Angela O’Brien (0097579)

Counsel of Record

David Bergmann (0009991)

Terry Etter (0067445)

Assistant Consumers’ Counsel

# Office of the Ohio Consumers’ Counsel

# 65 East State Street, 7th Floor

# Columbus, Ohio 43215-4213

Telephone [O’Brien]: (614) 466-9531

Telephone [Bergmann] (614) 466-9569

Telephone [Etter]: (614) 466-7964

Angela.obrien@occ.ohio.gov

David.bergmann@occ.ohio.gov

Terry.etter@occ.ohio.gov

(willing to accept service by e-mail)

**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 6th day of September 2019.

/s/ *Angela O’Brien*

Angela 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:*

**SERVICE LIST**

|  |  |
| --- | --- |
| Andrew.shaffer@ohioattorneygeneral.gov  [Michele.noble@squirepb.com](mailto:Michele.noble@squirepb.com) |  |

1. *See* R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11. [↑](#footnote-ref-2)
2. PUCO Complaint, ¶ 8 (August 14, 2019). [↑](#footnote-ref-3)
3. Ohio Adm. Code 4901:1-6-12(C)(5). [↑](#footnote-ref-4)
4. *See, e.g.,* PUCO Complaint at ¶¶ 41-54. [↑](#footnote-ref-5)
5. *Id.* at ¶¶ 14-15. [↑](#footnote-ref-6)
6. *Id.* at ¶¶ 27-40. [↑](#footnote-ref-7)
7. *Id.* at ¶¶ 9-12. [↑](#footnote-ref-8)
8. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20. [↑](#footnote-ref-9)