**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of Bill Format Changes.  | ))) | Case No. 21-1233-GE-UNC |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

For consumer protection, the Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene where Duke Energy Ohio (“Duke” or “Utility”) seeks approval to implement several new bill formats that change how information is conveyed to consumers on their natural gas and electric bills.[[1]](#footnote-2) Duke’s proposed new bill format violates the PUCO rules, can be confusing for consumers, and omits important information that would be needed for consumers to help manage their energy costs.

The PUCO should ensure that Duke’s proposed bill formats complies with the minimum content requirements identified in Ohio Adm. Code 4901:1-10-22 and 4901:1-13-11. These rules address standards for clear and accurate information on consumer bills. In addition to other issues in Duke’s proposals, Duke is referencing an incorrect URL (website address) regarding OCC’s contact information. Duke’s bill should show OCC’s correct contact information as [www.occ.ohio.gov](http://www.occ.ohio.gov) .[[2]](#footnote-3)

In addition, Duke’s proposed bill format contains confusing information about the operation of electric meters for consumers. While the proposed bill format for disconnect notices is an improvement over previous Duke bills, additional enhancements are necessary to help at-risk consumers. Also, the proposed bill format contains no reference to resources such as the online bill calculator that consumers can use to determine if they are being accurately billed. Finally, the proposed bill format is a missed opportunity to provide an enhanced price-to-compare message on natural gas and electric bills. Including this information would help consumers determine if Marketer rates are saving them money. OCC requests intervention to advocate for important bill format changes and to mitigate the impact that Duke’s proposed bill format can have on consumers.

OCC is filing on behalf of Duke’s approximately 640,000 residential electric and 410,000 residential gas consumers.[[3]](#footnote-4) The reasons the Public Utilities Commission of Ohio (“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/ Amy Botschner O’Brien*

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## MEMORANDUM IN SUPPORT

Duke’s proposed bill format impacts the information that is provided to practically every residential consumer served by the Utility. A utility’s bill format is an important tool for informing consumer and enhancing their understanding of the utility services and the nature of the charges collected from them on a monthly basis. Duke’s proposed bill format needs to improve the clearness, understandability, and accuracy of the information provided. In addition, utility bill format changes should be reviewed so that the proposed changes are actually beneficial to consumers. Unfortunately, Duke’s proposed bill format fails to make beneficial changes for consumers. OCC requests intervention to advocate for bill format improvements to help consumers and to mitigate the impact that Duke’s proposed bill format can have on consumers.

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 consumers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding where Duke proposes changes to consumers’ bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Public Utilities Commission of Ohio (“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; and

(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 Ohio’s residential utility consumers where Duke seeks PUCO approval of bill format changes that impact practically every residential consumer served by the Utility. 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 consumers will include advancing the position that consumer protections that include the accuracy and understandability of the bill should be considered with regard to changes in bill format proposals. OCC’s position is therefore directly related to the merits of this case that is before the PUCO.

Third, OCC’s intervention will not unduly prolong or delay the proceedings. 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.

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. This includes advocating that the bill format is an important consumer protection that must be implemented in a clear, understandable, and accurate manner to help consumers.

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 statutory advocate for residential utility consumers, OCC has a very real and substantial interest in this case where the utility seeks approval to implement new bill formats that convey consumer protection requirements under the PUCO rules.

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 OCC 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 (“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.[[4]](#footnote-5)

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 consumers, 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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(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 25th day of February 2022.

 */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:

**SERVICE LIST**

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1. Application of Duke Energy Ohio, Inc. for Approval of New Bill Format Changes, Case No. 21-1233-GE-UNC (Dec. 17, 2021). [↑](#footnote-ref-2)
2. Also pointed out in OCC’s Motion to Intervene in Duke’s concurrent waiver case, Case No. 21-1232-EL-WVR. [↑](#footnote-ref-3)
3. *See* R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. [↑](#footnote-ref-4)
4. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20. [↑](#footnote-ref-5)