**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| --- | --- | --- |
| In the Matter of the Annual Application of Columbia Gas of Ohio, Inc. for an Adjustment to Rider IRP and Rider DSM Rates. | )  )  )  ) | Case No. 19-1940-GA-RDR |

**MOTION TO INTERVENE**

**BY**

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

Columbia Gas of Ohio, Inc. (“Columbia”) seeks approval from the Public Utilities Commission of Ohio (“PUCO”) to charge each of its 1.3 million residential customers $131.88 per year for its Infrastructure Replacement Program (“IRP”). This charge would be approximately a 17% increase over the already high amount that customers currently pay.[[1]](#footnote-2)

In addition, a typical residential customer using 10 Mcf per month would pay Columbia more than $25 per year for utility-run energy efficiency through Columbia’s Demand Side Management (“DSM”) program.[[2]](#footnote-3) Energy efficiency is a good thing that is available to consumers without utility involvement. Columbia’s utility energy efficiency charge is levied despite the legislature giving the PUCO no statutory mandate for gas efficiency and the legislature recently eliminating the mandate for electric efficiency.

The Office of the Ohio Consumers’ Counsel’s (“OCC”) moves to intervene for consumer protection. OCC’s motion to intervene should be granted for the reasons set forth in the attached Memorandum in Support.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

/s/ *Bryce McKenney*

Bryce McKenney (0088203)

Counsel of Record

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(willing to accept service by e-mail)

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## MEMORANDUM IN SUPPORT

This PUCO will be reviewing two unrelated charges on Columbia’s customers’ bills: charges for Columbia’s energy efficiency programs (paid through the DSM Rider) and charges for Columbia’s infrastructure replacement program (paid through the IRP Rider). If Columbia’s charges are updated as proposed in the Notice of Intent, each of Columbia’s 1.3 million residential customers will pay $131.88 per year in infrastructure replacement program (“IRP”) charges. Likewise, a typical residential consumer using 10 Mcf per month will pay more than $25 per year for Columbia’s energy efficiency programs, regardless of whether that customer participates in the programs.

OCC has authority under law to represent the interests of Columbia’s 1.3 million residential 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 where the PUCO will determine how much Columbia can charge customers for its infrastructure replacement and energy efficiency programs. 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 Columbia’s residential consumers. 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 Columbia’s shareholders.

Second, OCC’s advocacy for residential customers will include, among other things, advancing the position that customers should only be made to pay rates that are found to be just and reasonable with costs that are found to be prudent.[[3]](#footnote-4) 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 the PUCO will determine what how much Columbia can charge customers for its natural gas energy efficiency programs and the utility’s IRP.

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.[[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 customers, the PUCO should grant OCC’s Motion to Intervene.

Respectfully submitted,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

/s/ *Bryce McKenney*

Bryce McKenney (0088203)

Counsel of Record

Ambrosia Logsdon (0096598)

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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 16th day of December 2019.

/s/ *Bryce McKenney*

Bryce McKenney

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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| --- | --- |
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1. *See* Notice of Intent to File an Application to Adjust Rider IRP & Rider DSM Rate of Columbia Gas of Ohio, Inc. at Ex. 3 (Nov. 26, 2019) (the “Pre-Filing Notice”) (showing increase in monthly charges from $9.38 to $10.99). [↑](#footnote-ref-2)
2. *Id*. (showing increase in $/Mcf charge from $0.1957 to $0.2146). [↑](#footnote-ref-3)
3. *See* A Cautionary Tale About Energy Efficiency Initiatives, by Ken Costello, <https://www.cato.org/sites/cato.org/files/serials/files/regulation/2019/3/regulation-v42n1-4_0.pdf>, (“The best available evidence – peer-reviewed studies conducted by disinterested analysts using sophisticated methods – suggests that EE initiatives funded by utility customers should be scrutinized rather than reflexively praised by policymakers. Even if EE programs were ever cost effective, the “shale gas” era has made many of them ineffective now. The best available evidence suggests that EE programs transfer money from some utility customers to others with no gain in efficiency.”). [↑](#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)