**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| --- | --- | --- |
| In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company for Approval of a Change in Bill Format. | ))))) | Case No. 23-0898-EL-UNC |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene[[1]](#footnote-2) where FirstEnergy[[2]](#footnote-3) seeks approval to implement several new bill formats that substantially change how information is conveyed to consumers on their electric utility bills. The PUCO’s review requires it to ensure that FirstEnergy’s proposed bill formats comply with the minimum content requirements identified in O.A.C. 4901:1-10-22. These rules address the standards for clear and accurate information on consumer bills. In addition to other issues in FirstEnergy’s proposals, FirstEnergy incorrectly references and formats the information for the Office of the Ohio Consumers’ Counsel including an incorrect web address.

OCC is filing on behalf of the 1.9 million residential electric utility consumers of FirstEnergy. The PUCO should grant OCC’s motion to intervene on behalf of consumers, for the reasons set forth in the attached memorandum in support.

 Respectfully submitted,

 Maureen R. Willis (0020847)

 Ohio Consumers’ Counsel

*/s/ Donald J. Kral*

Donald J. Kral (0042091)

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**MEMORANDUM IN SUPPORT**

FirstEnergy seeks to modify its bill formats substantially changing how information is conveyed to consumers on its electric utility bills. The proposed format changes and completely redesigns the bills for all residential and non-residential customers. Changes include larger paper, larger font, colored ink, average daily cost graphs, an informational/educational section, and other alleged enhancements. Also included are modifications to the disconnection notice as well as elimination of meter dial reading instructions for all consumers regardless of whether a digital or AMI meter has been installed at their property.

OCC has authority under O.R.C. Chapter 4911 to represent the interests of all 1.9 million residential utility customers of FirstEnergy.

 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 FirstEnergy’s residential consumers may be “adversely affected” especially if the customers were unrepresented in a proceeding where FirstEnergy seeks substantial modifications to the form of residential customers’ bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

Moreover, OCC’s intervention is consistent with R.C. 4903.221(B) which 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 proceeding; 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 residential consumers of FirstEnergy in this case where FirstEnergy is proposing major revisions to its bill formats and other items. This interest is different than that of any other party and especially different than that of the utility whose advocacy generally includes the financial interest of stockholders.

Second, OCC’s advocacy for residential customers will include, among other things, advancing the position that customers’ bills should promote transparency in customers’ generation and transmission rates as well as correctly set forth the information regarding the Office of the Ohio Consumers’ Counsel. 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 representing residential consumers 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’s advocacy on behalf of residential consumers will result in the development of information that the PUCO should consider for equitably and lawfully deciding the case.

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 O.A.C. 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case where residential customers’ bills could be substantially modified including information they receive regarding the costs of generation and transmission of their electricity.

In addition, OCC meets the criteria of O.A.C. 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.

O.A.C. 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 more than satisfies it, as OCC is uniquely designated as the state representative of the interests of Ohio’s residential utility consumers. That interest is different from, and not represented by, any other entity in this proceeding.

Moreover, the Supreme Court of Ohio has affirmed 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.[[3]](#footnote-4)

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/ Donald J. Kral*

Donald J. Kral (0042091)

Assistant Consumers’ Counsel

Counsel of Record

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 (willing to accept service by e-mail)

**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 6th day of October 2023.

*/s/ Donald J. Kral*

Donald J. Kral

 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 O.A.C. 4901-1-11. [↑](#footnote-ref-2)
2. Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company. [↑](#footnote-ref-3)
3. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20. [↑](#footnote-ref-4)