**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of Suburban Natural Gas Company for Approval of an Alternative Form of Regulation | )  )  )  ) | Case No. 22-1132-GA-ALT |

**MOTION TO INTERVENE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The Suburban Natural Gas Company (“Suburban”) requests the PUCO approve a new Capital Expenditure Program (“CEP”) funded by an associated Rider (“Rider CEP”) charge to consumers. Suburban proposes to collect from residential consumers an initial Rider CEP rate of $4.20 per month[[1]](#footnote-2) for CEP capital investments from March 1, 2019 through June 30, 2022[[2]](#footnote-3). And Suburban proposes annual Rider CEP increases in subsequent years.[[3]](#footnote-4)

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene in this case on behalf of approximately 19,000 residential utility consumers of Suburban who will be asked to pay the new charge.[[4]](#footnote-5) 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/ Connor D. Semple*

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## MEMORANDUM IN SUPPORT

Suburban seeks approval of its Capital Expenditure Program (“CEP”) funded by an associated Rider (“Rider CEP”) charge to consumers. Suburban proposes to collect from residential consumers an initial Rider CEP rate of $4.20 per month[[5]](#footnote-6) for CEP capital investments from March 1, 2019 through June 30, 2022[[6]](#footnote-7). And Suburban proposes annual Rider CEP increases in subsequent years.[[7]](#footnote-8)

OCC has authority to represent the interests of Suburban’s approximately 19,000 residential consumers, pursuant to 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 consumers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding where the utility is seeking approval for new charges to consumers. 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 in representing the residential consumers of Suburban in this case where Suburban seeks PUCO approval of its CEP and related charges to consumers. The CEP, if approved by the PUCO, would result in more charges to consumers. Under Ohio law, R.C. 2928.02, all charges to consumers must be just and reasonable. 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 charges should be no more than what is just and reasonable under Ohio law, for service that is adequate under Ohio law. 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 O.A.C. 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a real and substantial interest in this case where the utility is seeking to impose new charges on consumers.

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), which OCC already has addressed and which 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 satisfies this criterion as the only exclusive state representative of all residential utility consumers. 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, 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,

Bruce Weston (0016973)

Ohio Consumers’ Counsel

*/s/ Connor D. Semple*

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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 29th day of March 2023.

*/s/ Connor D. Semple*

Connor D. Semple

Counsel of Record

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 Attachment L, Schedule CEP-1. [↑](#footnote-ref-2)
2. Application Attachment L, Schedule CEP-2. [↑](#footnote-ref-3)
3. Application Attachment K. [↑](#footnote-ref-4)
4. *See* R.C. Chapter 4911, R.C. 4903.221 and O.A.C. 4901-1-11. [↑](#footnote-ref-5)
5. Application Attachment L, Schedule CEP-1. [↑](#footnote-ref-6)
6. Application Attachment L, Schedule CEP-2. [↑](#footnote-ref-7)
7. Application Attachment K. [↑](#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)