**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of The East Ohio Gas Company d/b/a  Dominion Energy Ohio for Approval of an Alternative Form of Regulation. | )  )  )  ) | Case No. 20-1634-GA-ALT |

**MOTION TO INTERVENE**

**BY**

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

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene where Dominion Energy Ohio (“Dominion” or the “Utility”) seeks authority to continue its accelerated pipeline infrastructure replacement program (that has been ongoing for twelve years) for another five years.[[1]](#footnote-2) The Utility is requesting authority to increase the charge each of its 1.2 million residential customers pay by up to an extra $1.82 per month each year for the next five years. That additional charge is on top of the $13.45 per month customers already pay for the Utility’s pipeline infrastructure replacement program (PIR). OCC is filing on behalf of the 1.2 million residential utility customers of Dominion Energy. 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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Counsel of Record

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## MEMORANDUM IN SUPPORT

Dominion Energy seeks authority to continue its accelerated pipeline infrastructure replacement program (that has been ongoing for twelve years) for another five years.[[2]](#footnote-3) Included in its Application, the Utility is requesting authority to increase the charge each of its 1.2 million residential customers pay by up to an extra $1.82 per month each year for the next five years. That additional charge is on top of the $13.45 per month customers already pay for the Utility’s pipeline infrastructure replacement program (PIR).[[3]](#footnote-4)

In 2019, Dominion spent $209,419,323 on the PIR, and cumulatively through 2019 Dominion has spent $1,803,433,764 on the PIR outside of a base rate case.[[4]](#footnote-5) Since its inception, consumers have paid and are paying for a return on and return of Dominion’s investment for the program. And if this increase is approved, consumers will

also pay a return on and return of Dominion’s additional investment in the program.[[5]](#footnote-6) OCC has authority under law to represent the interests of all the 1.2 million residential utility customers of Dominion Energy, 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 Utility seeks to charge them even more. 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 the residential customers of Dominion Energy involving proposed additional charges to customers for the Utility’s pipeline infrastructure replacement rider. 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 customers will include, among other things, advancing the position that rates should be no more than what is reasonable and lawful 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 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 Dominion seeks to increase the PIR Rider charge even beyond the 35%-40% of a residential customer’s total monthly fixed charges that customers currently pay under this particular Rider.

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.[[6]](#footnote-7)

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/ Amy Botschner O’Brien*

Amy Botschner O’Brien (0074423)

Counsel of Record

Ambrosia E. Wilson (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 8th day of January 2021.

*/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 for Approval of an Alternative Rate Plan, Case No. 20-1634-GA-ALT (Dec. 8, 2020). *See also*, *In the Matter of the Application of the East Ohio Gas Company d/b/a Dominion East Ohio for Approval of Tariffs to Recover Certain Costs Associated with a Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause and for Certain Accounting Treatment*, Case No. 08-0169-GA-ALT. [↑](#footnote-ref-2)
2. Application, Case No. 20-1634-GA-ALT. [↑](#footnote-ref-3)
3. Application for Approval of an Alternative Rate Plan, Case No. 20-1634-GA-ALT (Dec. 8, 2020); *see* *also* *In the Matter of the application of The East Ohio Gas Company d/b/a/ Dominion Energy Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge and Related Matters*, Case No. 19-1944-GA-RDR, Finding and Order (April 8, 2020). [↑](#footnote-ref-4)
4. Case No. 19-1944-GA-RDR. [↑](#footnote-ref-5)
5. *See* *also* Staff Ex. 2 at 5 (totaling the Estimated Capital Investment at $1.017 billion and adding the $1 billion already invested) *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Cost Recovery Charge and Related Matters*, Case No. 15-1987-GA-RDR, Application at Att. A, Schedule 1 (Feb. 29, 2016) (Showing roughly $1 billion already invested in the program). [↑](#footnote-ref-6)
6. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20. [↑](#footnote-ref-7)