

FILE

IN THE SUPREME COURT OF OHIO

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PUCO

The Office of the Ohio Consumers' Counsel,

Appellant,

v.

The Public Utilities Commission
of Ohio,

Appellee.

Case No. _____

Appeal from the Public
Utilities Commission of Ohio

07-0033

Public Utilities
Commission of Ohio
Case No. 05-1444-GA-UNC

NOTICE OF APPEAL
OF

THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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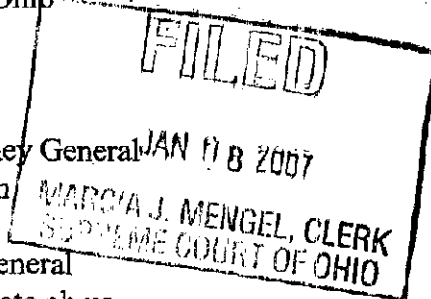
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Notice of Appeal of Appellant the Office of the Ohio Consumers' Counsel

Appellant, the Office of the Ohio Consumers' Counsel, pursuant to R.C. 4903.11, R.C. 4903.13, and S. Ct. Prac. R. II (3)(B), hereby gives notice to the Supreme Court of Ohio and to the Public Utilities Commission of Ohio ("Appellee" or "PUCO") of this appeal to the Supreme Court of Ohio from Appellee's Opinion and Order entered in its Journal on September 13, 2006 and Entry on Rehearing entered in its Journal on November 8, 2006 in Case No. 05-1444-GA-UNC before the PUCO.

Pursuant to R.C. Chapter 4911, Appellant is the statutory representative of the residential customers of Vectren Energy Delivery of Ohio, Inc. ("Vectren" or the "Company"). Appellant is and was a party of record in the case below before the PUCO. On October 13, 2006, pursuant to R.C. 4903.10, Appellant timely filed an Application for Rehearing from the September 13, 2006 Opinion and Order. Appellant's Application for Rehearing was denied with respect to the issues raised in this appeal by an Entry on Rehearing entered in Appellee's Journal on November 8, 2006.

Appellant files this Notice of Appeal, complaining and alleging that Appellee's September 13, 2006 Opinion and Order and November 8, 2006 Entry on Rehearing result in a final order that is unlawful, unjust, and unreasonable, and that Appellee erred as a matter of law, in the following respects that were raised in Appellant's Application for Rehearing:

1. The Commission erred in authorizing Vectren to increase rates to customers, through a decoupling mechanism, that violated Ohio's statutory ratemaking scheme including R.C. 4909.18, 4909.19 and 4909.15.
2. The Commission erred in authorizing Vectren to implement a decoupling mechanism, under R.C. 4929.05, when Vectren's application was not filed pursuant to R.C. 4909.18 as required, and just and reasonable rates were not determined by the Commission pursuant to R.C. 4909.15 as required.

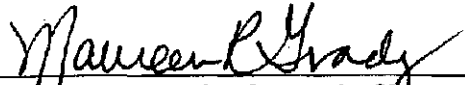
3. The Commission erred in issuing an order that was not supported by evidence, amounting to mistake, and failing to meet the record standards set forth in, *inter alia*, *Cleveland Electric Illuminating Co. v. Pub. Util. Comm.* (1975), 42 Ohio St.2d 403, 330 N.E.2d 1.
4. The Commission erred by failing to accord substantial weight to the settlement stipulation that OCC signed with Vectren and the Ohio Partners for Affordable Energy, thereby failing to follow its own standard and precedent and contravening, *inter alia*, *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St.2d 155, 378 N.E.2d 480.

WHEREFORE, Appellant respectfully submits that the Appellee's September 13, 2006 Opinion and Order and November 8, 2006 Entry on Rehearing are unlawful, unjust, and unreasonable and should be reversed or vacated pursuant to R.C. 4903.13. The case should be remanded to the Appellee with instructions to correct the errors complained of herein.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
OHIO CONSUMERS' COUNSEL

By:


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appeal of the Office of the Ohio Consumers' Counsel was served upon the Chairman of the Public Utilities Commission of Ohio by leaving a copy at the office of the Chairman in Columbus and upon all parties of the proceedings before the Public Utilities Commission and pursuant to section 4903.13 of the Ohio Revised Code by regular U.S. Mail this 8th day of January, 2007.


Maureen R. Grady
Counsel for Appellant
Office of the Ohio Consumers' Counsel

**PUCO REPRESENTATIVES
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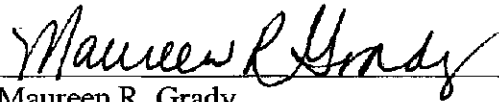
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CERTIFICATE OF FILING

I hereby certify that a Notice of Appeal of the Office of the Ohio Consumers' Counsel was filed with the docketing division of the Public Utilities Commission in accordance with sections 4901-1-02(A) and 4901-1-36 of the Ohio Administrative Code.

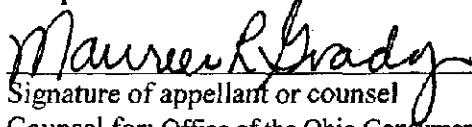
A handwritten signature in cursive script, reading "Maureen R. Grady", written over a horizontal line.

Maureen R. Grady
Counsel for Appellant
Office of the Ohio Consumers' Counsel

APPENDIX E. CASE INFORMATION STATEMENT IN THE SUPREME COURT OF OHIO

Case Information Statement

Case Name: The Office of the Ohio Consumers' Counsel v. Pub. Util. Comm.	Case No.: On Appeal from PUCO Case No. 05-1444-GA-UNC
I. Has this case previously been decided or remanded by this Court? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> If so, please provide the Case Name: _____ Case No.: _____ Any Citation: _____	
II. Will the determination of this case involve the interpretation or application of any particular case decided by the Supreme Court of Ohio or the Supreme Court of the United States? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If so, please provide the Case Name and Citation: See attached _____ Will the determination of this case involve the interpretation or application of any particular constitutional provision, statute, or rule of court? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If so, please provide the appropriate citation to the constitutional provision, statute, or court rule, as follows: U.S. Constitution: Article _____, Section _____ Ohio Revised Code: See attached _____ Ohio Constitution: Article _____, Section _____ Court Rule: _____ United States Code: Title _____, Section _____ Ohio Adm. Code: See attached _____	
III. Indicate up to three primary areas or topics of law involved in this proceeding (e.g., jury instructions, UM/UIM, search and seizure, etc.): 1) Regulatory law (esp. R.C. Chapters 4903, 4905, 4909, and 4929) _____ _____ _____	
IV. Are you aware of any case now pending or about to be brought before this Court that involves an issue substantially the same as, similar to, or related to an issue in this case? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If so, please identify the Case Name: _____ Case No.: _____ Court where Currently Pending: _____ Issue: _____	

Contact information for appellant or counsel:			
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10 West Broad Street Ste 1800		 Signature of appellant or counsel Counsel for: Office of the Ohio Consumers' Counsel	
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City	State	Zip Code	

Appendix E, Section II (cont.)

Ohio Supreme Court Cases:

Akron v. Pub. Util. Comm. (1978), 55 Ohio St.2d 155, 378 N.E.2d 480.

Cleveland Electric Illuminating Co. v. Pub. Util. Comm. (1975), 42 Ohio St.2d 403, 330 N.E.2d 1, certiorari denied (1975), 423 U.S. 986, 96 S.Ct. 393.

Cleveland Elec. Illum. Co. v. Pub. Util. Comm. (1996), 76 Ohio St.3d 163, 666 N.E.2d 1372.

Green Cove Resort I Owners' Association v. Pub. Util. Comm. (2004), 103 Ohio St.3d 125, 814 N.E.2d 829.

MCI Telecommunications Corp. v. Pub. Util. Comm. (1987), 32 Ohio St. 3d 306, 513 N.E.2d 337.

Ohio Bell Telephone Co. v. Pub. Util. Comm. (1992), 64 Ohio St.3d 145, 593 N.E.2d 286.

Ohio Consumers' Counsel v. Pub. Util. Comm. (2006), 111 Ohio St.3d 300, 856 N.E.2d 213.

Time Warner v. Pub. Util. Comm. (1996), 75 Ohio St.3d 229, 661 N.E.2d 1097.

Tongren v. Pub. Util. Comm. (1999), 85 Ohio St.3d 87, 706 N.E.2d 1255.

Ohio Revised Code Sections:

4903.09

4903.10

4903.11

4903.13

4905.70

4909.15

4909.18

4909.19

4911.01 et seq.

4929.01 et seq.

Appendix E, Section IV (cont.)

Related Pending Cases: None