

FILE

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV  
2007 OCT 18 PM 4:30  
PUCO

In the Matter of the Amendment of Certain )  
Rules to Revise Language Requirements on ) Case No. 07-1042-AU-ORD  
Case No. 07-1042-AU-ORD Utility Bills )  
and Other Documents. )

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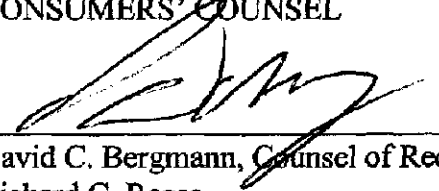
**MOTION TO INTERVENE  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential consumers of Ohio's public utilities, moves to intervene in the above-captioned proceeding pursuant to R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. The reasons for granting OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

  
David C. Bergmann, Counsel of Record  
Richard C. Reese  
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Assistant Consumers' Counsel

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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

On October 3, 2007, the Public Utilities Commission of Ohio ("Commission" or "PUCO") issued an Entry to initiate this case and call for comments. The PUCO proposes to modify rules related to the call center contact information for the PUCO and OCC, which Ohioans see on their utility bills, welcome letters, disconnection notices, and statements of customer rights. The Entry is in response to the passage of House Bill 119, effective September 28, 2007, which restored the ability of the OCC call center to serve the public with the handling of residential consumer complaints.

OCC moves to intervene in the above-captioned case under its legislative authority to represent the interests of Ohio's utility consumers.

**II. ARGUMENT**

OCC has legislative authority to represent Ohio's residential utility consumers pursuant to R.C. Chapter 4911. The PUCO Staff's recommended rule revisions attached to the October 3, 2007 Entry reflect that residential consumers again have access to OCC's call center for addressing their complaints about their utility service. The printed

materials on which the OCC call center information will appear are a primary means for consumers to learn of OCC's contact information and services.

The interests of residential customers thus could be "adversely affected" by this case, meeting the intervention standard in R.C. 4903.221. 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 proceeding; and,
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

The nature and extent of residential consumers' interest in this proceeding merit OCC's intervention because it is appropriate to provide Ohio's consumers notice on how to contact the OCC to receive information and education on their rights as utility customers or to pursue complaints against a public utility. OCC's legal position is significantly related to the merits of the case because the OCC's ability to handle consumer complaints has been newly restored. OCC will not unduly prolong or delay the case, given the schedule already established by the PUCO. OCC will significantly contribute to the full development and equitable resolution of the factual issues herein because of OCC's knowledge, expertise and long history of assisting consumers. Therefore, OCC has met the criteria set forth in R.C. 4903.221.

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 residential utility consumer advocate, and the state agency with the restored capability to assist consumers with their utility-related complaints,, OCC has a very real and substantial interest in the contact information on utilities’ printed materials.

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) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission 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 consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio recently confirmed OCC’s right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC’s intervention and that OCC should have been granted intervention.<sup>1</sup>

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. The Commission should grant OCC’s Motion to Intervene on behalf of the residential utility consumers of the State of Ohio.

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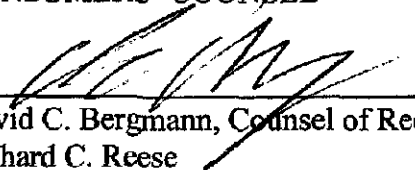
<sup>1</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶13-20 (2006).

### **III. CONCLUSION**

Given the General Assembly's determination of OCC's responsibilities, the PUCO should act to require public utilities to inform Ohioans of the services of the state agency, OCC, that can offer assistance. For the reasons stated above, OCC meets the criteria set forth in R.C. 4903.221 and the Commission's rules regarding intervention. On behalf of all of Ohio's residential utility consumers, the OCC respectfully requests that the Commission grant its Motion to Intervene.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Intervene of the Office of the Ohio Consumers' Counsel was served by first class United States Mail, postage prepaid, to the persons listed below, on this 18<sup>th</sup> day of October 2007.

  
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