

**FILE**

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
Vectren Energy Delivery of Ohio, Inc., for )  
Authority to Amend its Filed Tariffs to )  
Increase the Rates and Charges for Gas )  
Services and Related Matters. )

Case No. 07-1080-GA-AIR

In the Matter of the Application of )  
Vectren Energy Delivery of Ohio, Inc., for )  
Approval of An Alternative Rate Plan for )  
a Distribution Replacement Rider to )  
Recover the Costs of a Program for the )  
Accelerated Replacement of Cast Iron )  
Mains and Bare Steel Mains and Service )  
Lines, a Sales Reconciliation Rider to )  
Collect Difference Between Actual and )  
Approved Revenues, and Inclusion in )  
Operating Expense of the Costs of Certain )  
Reliability Programs. )

Case No. 07-1081-GA-ALT

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

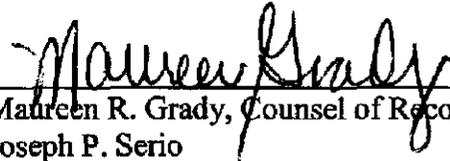
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The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all of the residential utility consumers of Vectren Energy Delivery of Ohio, Inc., moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in the above-captioned proceedings where the gas rates customers pay and the service quality customers receive will be reviewed. R.C. 4903.221; Ohio Adm. Code 4901-1-11. OCC's Motion should be granted because OCC meets the legal standards for intervention, as explained in detail in the attached Memorandum in Support.

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Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

A handwritten signature in black ink, reading "Maureen Grady", is written over a horizontal line.

Maureen R. Grady, Counsel of Record  
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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

On September 28, 2007, Vectren Energy Delivery of Ohio, Inc. ("Vectren") filed a Notice of Intent to File an application for an Increase in its gas rates and an application for approval of Alternative Rate Plan proposals in its Dayton and west central Ohio service area (Vectren's entire gas service area territory). The application for a rate increase and an alternative rate proposal will affect all of the approximately 293,000 residential customers in Vectren's gas service territory. The Commission should grant

OCC's Motion to Intervene in these proceedings so that OCC can fully participate in these proceedings and protect the interests of Vectren's residential customers.

## **II. INTERVENTION**

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, under R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding may seek intervention in that proceeding. The interests of Ohio's residential consumers may be "adversely affected" by this case, especially if the consumers are unrepresented in a proceeding where Vectren is seeking to significantly increase its gas service rates and make fundamental changes in the way it designs rates to recover costs.

These changes include Vectren's intent to move to a straight fixed variable rate in two stages. Under the rate design proposed, Vectren will recover a large percentage of its costs through a flat, inescapable, minimum monthly customer charge. Currently, a large percentage of Vectren's costs are recovered through the volumetric portion of the customer's bill. Shifting recovery of the majority of Vectren's costs to the flat customer charge may cause low-usage customers to drop off the system in order to avoid the significantly increased customer charges. At the same time, the significantly increased flat monthly customer charge may reduce the ability of consumers to save money through conservation efforts aimed at reducing consumption.

Additionally, the notice proposes to increase rates by Vectren through numerous automatic riders. These riders will significantly increase rates to customers.

R.C. 4903.221(B) requires the Commission 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.

First, the nature and extent of OCC's interest is representing the residential consumers of Vectren. This interest is different than that of any other party and especially different than that of the utility that advocates for the financial interest of stockholders.

Second, OCC will advocate, among other things, that Vectren's rate increase should be no more than what is reasonable and permissible under Ohio law, for service that is adequate under Ohio law. OCC's position is therefore directly related to the merits of these cases pending before the PUCO, which regulates public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC has longstanding expertise and experience in PUCO proceedings, and will contribute to the process of the cases.

Fourth, OCC's intervention will significantly contribute to the 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 cases 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 residential utility consumer advocate, OCC has a very real and substantial interest in this case where Vectren proposes to raise the gas base rates that consumers pay.

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 because it has been uniquely designated as the state representative of the interests of Ohio’s residential utility consumers.<sup>1</sup> 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>2</sup>

OCC meets the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. Additionally, granting OCC intervention is consistent with the intervention standards

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<sup>1</sup> R.C. Chapter 4911.

<sup>2</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

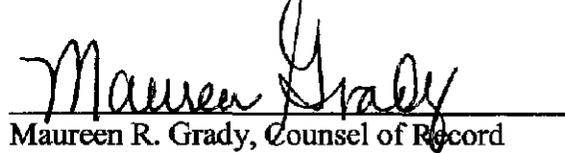
explained by the Supreme Court of Ohio. On behalf of the residential consumers in Vectren's service area, the Commission should grant OCC's Motion to Intervene.

### **III. CONCLUSION**

For the reasons stated above, the Commission should grant OCC's Motion to Intervene on behalf of the approximately 293,000 residential customers who have an interest in the outcome of these cases.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

A handwritten signature in cursive script that reads "Maureen Grady". The signature is written in black ink and is positioned above a horizontal line.

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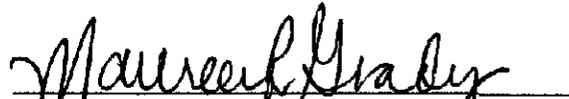
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's *Motion to Intervene* was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 5<sup>th</sup> day of November 2007.

  
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