

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio American Water Company)
To Increase its Rates in Its Entire Service) Case No. 07-1112-WS-AIR
Area for Water Service and Sewer Service)

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

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all residential utility consumers of the Ohio American Water Company, moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in the above-captioned proceeding where water and sewer service rates and service quality will be reviewed.¹ OCC's Motion should be granted because OCC meets the legal standards for intervention, as explained in detail in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



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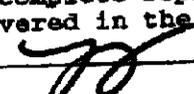
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¹ R.C. Chapter 4911; R.C. 4903.221; Ohio Adm. Code 4901-1-11.

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On October 12, 2007, Ohio American Water Company (“OAW”) filed a Notice of Intent to increase its water and sewer service rates for its entire service area. On November 13, 2007, OAW filed its application for a rate increase that will affect all of the approximately 51,000 residential customers of OAW. The Commission should grant OCC’s Motion to Intervene in this proceeding so that OCC can fully participate in this proceeding and protect the interests of residential customers of OAW.

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 OAW is seeking to increase its water and sewer service rates. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

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 OAW. This interest is different than that of any other party and especially different than that of the utility that advocates for the financial interests of its stockholders.

Second, OCC's legal position is that OAW's rate increase for all the residential consumers 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 this case pending before the PUCO that regulates public utilities' rates and service quality in Ohio.

In addition, OCC will advocate that OAW cannot bring a new rate case for residents of the Franklin County and Portage County districts at this time because of provisions in the settlement agreement reached in OAW's last rate case. (Attached) The agreement was approved by the Commission on March 7, 2007 and served to resolve OAW's last rate case, Case No. 06-433-WS-AIR. In paragraph number seven of the January 10, 2007 agreement OAW agreed to complete all the steps necessary to resolve the water discoloration issue for the Huber Ridge residents before filing a new rate case.

Paragraph number twelve outlines the steps agreed upon in order for OAW to demonstrate that the discoloration issue was resolved. At this time, OAW has not completed all of the sampling requirements outlined in paragraphs 12(B), (F) and (G). OCC plans to file a separate pleading to address this issue in the near future.

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

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 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 residential utility consumer advocate, OCC has a very real and substantial interest in this case where OAW proposes to raise the water and sewer service 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. 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.²

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 explained by the Supreme Court of Ohio. On behalf of OAW's residential consumers, 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 51,000 residential customers who have an interest in the outcome of this case.

² *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20.

Respectfully submitted,

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CONSUMERS' COUNSEL

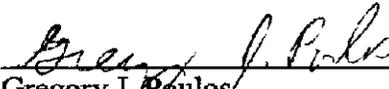


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CERTIFICATE OF SERVICE

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 20th day of November, 2007.



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