

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Regulation of the Purchased     )  
Gas Adjustment Clauses Contained Within the     ) Case No. 12-209-GA-GCR  
Rate Schedules of Northeast Natural Gas     )  
Company.     )

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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 approximately 14,000 residential utility consumers of Northeast Ohio Natural Gas Company ("Northeast" or "the Company"), moves<sup>1</sup> the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant the OCC's intervention. The Commission, in this case, will review the prudence of Northeast's gas purchases during the Gas Cost Recovery ("GCR") audit period, from March 1, 2010 through February 29, 2012 to assure Northeast's consumers were not harmed by the Company's natural gas purchasing policies and practices.<sup>2</sup>

The reasons the PUCO should grant this Motion are more fully explained in the attached Memorandum in Support.

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<sup>1</sup> R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

<sup>2</sup> Among other things, this case follows Northeast's Gas Cost Recovery Management/Performance Audit in Case No. 10-209-GA-GCR. OCC was an active party in that proceeding and many of the issues from the 10-209-GA-GCR case will be reviewed as part of the current case. Among those issues OCC will be arguing for compliance with the terms and conditions that the Company agreed to as part of the Stipulation and Recommendation from Case No. 10-209-GA-GCR.

Respectfully submitted,

BRUCE J. WESTON  
INTERIM CONSUMERS' COUNSEL

*/s/ Joseph P. Serio*

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**MEMORANDUM IN SUPPORT**

Pursuant to R.C. Chapter 4911, the OCC moves to intervene under its legislative authority to represent the interests of all Northeast’s residential utility customers. 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 Northeast’s residential consumers may be “adversely affected” by this case, especially if residential consumers were unrepresented in a proceeding in which imprudent, unreasonable, or inappropriate procurement policies and practices have led to charges for residential natural gas commodity service that could be avoided.<sup>3</sup> 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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

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<sup>3</sup> R.C. 4905.302(E).

First, the nature and extent of OCC's interest includes advocating for residential customers who have to purchase their natural gas supplies from Northeast under the GCR mechanism, and have the statutory right to only pay costs that are prudent and reasonable. Consumers should be able to purchase GCR gas supplies with the knowledge that the Company's underlying gas purchases were just and reasonable, and were made to benefit GCR customers and not the Company's affiliates.

The General Assembly deemed the interests of residential customers worthy of protection through legislative authority in R.C. Chapter 4911. The OCC should be permitted to intervene to protect these interests.

Second, the legal positions advanced by the OCC regarding the just and reasonable nature of Northeast's GCR rate will be the key component in this case. The OCC's advocacy for consumers will include advancing the position that Northeast is legally required to put the interests of its GCR customers above those of its affiliates in the acquisition of natural gas supplies for resale to captive GCR customers.

Third, OCC's participation will not unduly prolong or delay the proceeding. The OCC's intervention will provide insights based upon expertise to assist the Commission in its review of Northeast's GCR rates. Therefore, OCC's intervention is consistent with and supported by the statute, and any future procedural schedule.

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.

The 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 Admin. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case, where OCC will advocate for residential consumers who should be protected from having to pay GCR rates that are not just and reasonable.

In addition, OCC meets the criteria of Ohio Admin. 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 Northeast’s residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384 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>4</sup>

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<sup>4</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶13-20 (2006).

For the reasons discussed above, the OCC satisfies the criteria set forth in R.C. 4903.221 and Ohio Admin. Code 4901-1-11. Therefore, OCC's Motion to Intervene should be granted.

## **CONCLUSION**

Therefore, for all the reasons stated above, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON  
INTERIM CONSUMERS' COUNSEL

/s/ Joseph P. Serio  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Motion to Intervene* was provided to the persons listed below via electronic service this 6<sup>th</sup> day of March 2012.

/s/ Joseph P. Serio

Joseph P. Serio

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