

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The East)
Ohio Gas Company d/b/a Dominion East)
Ohio to Adjust its Pipeline Infrastructure) Case No. 12-812-GA-RDR
Replacement Program Cost Recovery Charge)
and Related Matters.)

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

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers of the East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion," or "Company"), moves¹ the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant the OCC's intervention in this case wherein Dominion filed an Application ("Application") to seek an annual adjustment to its Pipeline Infrastructure Replacement Program ("PIR") Rider rates.² The Company seeks to adjust the PIR Rider Rate to \$2.80 per month (an increase of \$0.58 per month) beginning in the second quarter of 2012, to be charged to Dominion's 1.1 million residential customers.³ The reasons the PUCO should grant this Motion are more fully explained in the attached Memorandum in Support.

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

² Application (February 28 2012).

³ Application at 7 (The proposed PIR Rate represents a \$0.58 increase from the existing \$2.22 PIR Rider Rate).

Respectfully submitted,

BRUCE J. WESTON

/s/ Larry S. Sauer

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On February 28, 2012, the Company filed an Application to increase the proposed PIR Rider Rate that Dominion would ask customers to pay. Under the PIR, Dominion is installing plastic mains and service lines to replace the cast iron and bare steel mains and metallic service lines throughout its service territory in an accelerated time period.⁴ The procedure for requiring the annual filing was agreed to in the most recent Dominion rate case (“Dominion Rate Case”) proceeding, Case No. 07-829-GA-AIR, et al,⁵ and was modified in 2011 in Case No. 11-2401-GA-ALT.⁶ Dominion’s Application includes six months of actual data for the period July 1, 2011 through December 31, 2011.⁷

⁴ Application at 2-3.

⁵ *In the Matter of the Application of Dominion East Ohio. for an Increase in Rates*, Case No. 08-829-GA-AIR, et al Stipulation and Recommendation at 8-10 (August 22, 2008).

⁶ *In re Dominion PIR Modification Case (“Dominion PIR Modification Case”)*, Case No. 11-2401-GA-ALT, Opinion and Order (August 3, 2011).

⁷ Application at 4.

II. INTERVENTION

Pursuant to R.C. Chapter 4911, the OCC moves to intervene under its legislative authority to represent the interests of the natural gas residential utility customers in Dominion's service territory. The procedure for requesting the annual increases to Dominion's PIR Rider rates was agreed to in the Dominion Rate Case and modified in the Dominion PIR Modification Case; however, the amount of the increase and Dominion's evidence in support of the increase are open to investigation and challenge.

The interests of Dominion's residential natural gas customers in Ohio may be "adversely affected" by this case, where there is a proposed increase to the PIR Rider rate that customers pay, thus satisfying the intervention standard in R.C. 4903.221. The OCC also meets the Commission's required showing for a party that has a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2), and should therefore be permitted to intervene in this case.

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.

First, the nature and extent of OCC's interest are in representing all residential consumers in this case where Dominion is proposing to increase its PIR Rider Rate that customers pay. 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 reasonableness and lawfulness of the Application have an actual, and not just “probable,” relation to the merits of the case. Third, OCC’s participation will not unduly prolong or delay the proceeding. In fact, OCC’s intervention will provide insights based upon expertise to assist the Commission in its treatment of the Application. Fourth, OCC’s advocacy for consumers will significantly contribute to the full development and equitable resolution of the issues herein. Therefore, OCC’s intervention is consistent with and supported by the statute.

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. The nature and extent of OCC’s interest lie in assuring that the provision of natural gas services will effectively and efficiently serve the energy needs of Dominion’s residential consumers.

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 confirmed OCC's right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁸

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. On behalf of Ohio residential customers, the Commission should grant OCC's Motion to Intervene.

III. CONCLUSION

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

Respectfully submitted,

BRUCE J. WESTON

/s/ Larry S. Sauer

Joseph P. Serio, Counsel of Record

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⁸ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

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 electronic service this 26th day of March 2012.

/s/ Larry S. Sauer

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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Sauer, Larry S.