

In the Matter of the Commission's )  
Review of Natural Gas Retail Market ) Case No. 13-1307-GA-COI  
Development. )

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the Public Utilities Commission of Ohio ("PUCO" or "Commission") opened a review of certain aspects of the natural gas retail market. The Commission has requested comments regarding the current standard choice offer ("SCO" or "Standard Rate") auctions and any recommendations on how to further support a fully competitive retail natural gas marketplace in Ohio. A focus of the case should include ensuring reasonably priced service for customers, with preservation of low auction prices from the current market. OCC is filing on behalf of all of the residential utility customers in the state of Ohio. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

*/s/ Larry S. Sauer*

---

Larry S. Sauer, Counsel of Record

Joseph P. Serio

Edmund Berger

Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (Sauer) (614) 466-1312

Telephone: (Serio) (614) 466-9565

Telephone: (Berger) (614) 466-1292

sauer@occ.state.oh.us

serio@occ.state.oh.us

berger@occ.state.oh.us

In the Matter of the Commission's )  
Review of the Natural Gas Retail Market ) Case No. 13-1307-GA-COI  
Development. )

In an Entry dated June 5, 2013, the Commission opened an investigation of Ohio's retail natural gas retail market. The PUCO is requesting interested parties to file comments on a number of areas that are very important to residential customers.

For instance, the PUCO has asked for comments on what regulatory changes should be made to support a fully competitive retail natural gas marketplace, and whether the SCO provides a competitive level playing field for SCO providers and competitive retail natural gas service (“CRNGS”) providers. At the present time the Standard Rate has provided natural gas customers the opportunity to save a lot of money on their purchases of natural gas.

The Standard Rate provides a safe harbor for customers who elect not to shop or who come back to the SCO after shopping. And the Standard Rate provides customers a price that they can use to compare with other retail offers. Thus, if any modifications to the SCO auctions or the price paid for SCO are considered, the interests of residential customers who greatly rely on SCO service -- and have significantly benefited from the service -- may be adversely affected.<sup>1</sup>

<sup>1</sup> *In the Matter of the Joint Motion to Modify the December 2, 2009 Opinion and Order and September 11, 2011 Second Opinion and Order in Case No. 08-1344-GA-EXM*, Case No. 12-2637-GA-EXM, OCC Initial Brief at 1 (December 11, 2012) (When residential and non-residential customers chose competitors' rates instead of the standard rate, those customers lost \$885 million since 1997, according to Columbia's "shadow-billing.")

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 Ohio’s residential customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding where, inter alia, the terms of the Standard Rate may be decided. 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 customers of Ohio natural gas utilities in this case involving the Commission review of retail natural gas service. This interest is different than that of any other party and especially different than that of the utilities and CRNGS providers whose advocacy includes the financial interest of their stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that customers are entitled under the law to reasonably priced retail natural gas service<sup>2</sup> and that the Commission’s review should be geared toward fulfilling obligations

---

<sup>2</sup> See R.C. 4929.02(A).

that presently exist under the law to protect consumers. OCC's position is therefore directly related to the review by the PUCO, the authority with regulatory control of public utilities' rates and service obligations in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues.

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 advocate for residential utility customers, OCC has a very real and substantial interest in this case where, inter alia, the rates and terms of natural gas default service to residential customers are being evaluated.

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 customers. 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.<sup>3</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. On behalf of Ohio residential customers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

/s/ Larry S. Sauer

Larry S. Sauer, Counsel of Record  
Joseph P. Serio  
Edmund Berger  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
Telephone: (Sauer) (614) 466-1312  
Telephone: (Serio) (614) 466-9565  
Telephone: (Berger) (614) 466-1292  
sauer@occ.state.oh.us  
serio@occ.state.oh.us  
berger@occ.state.oh.us

---

<sup>3</sup> 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 this *Motion to Intervene* was served on the persons stated below via electronic transmission to the persons listed below, this 9th day of July 2013.

*/s/ Larry S. Sauer* \_\_\_\_\_

Larry S. Sauer

Assistant Consumers' Counsel

**SERVICE LIST**

William Wright  
Chief, Public Utilities Section  
Public Utilities Commission of Ohio  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, Ohio 43215  
William.wright@puc.state.oh.us

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/9/2013 4:42:50 PM**

**in**

**Case No(s). 13-1307-GA-COI**

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