

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Interstate)
Gas Supply, Inc. for a Waiver of Rules) Case No. 14-1740-EL-WVR
4901:1-10-29(D)(6)(b) and 4901:1-21-) Case No. 14-1741-GA-WVR
06(D)(1)(h) of the Ohio Administrative Code.)

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case¹ where Interstate Gas Supply ("IGS") is proposing a new approach to door-to-door sales that involve a change in a consumer's electric or natural gas supplier. OCC is filing on behalf of all natural gas and electric residential utility customers in Ohio. The reasons the Public Utilities Commission of Ohio ("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/ Terry L. Etter

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

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MEMORANDUM IN SUPPORT

The PUCO has adopted rules that require third-party verification of all changes to a residential customer's electric or natural gas supplier if the change occurs because of a door-to-door solicitation.² The PUCO has stated that these rules are necessary to protect consumers.³

IGS, a supplier of electric and natural gas service, has asked the PUCO to waive the rules for certain of IGS's door-to-door solicitations.⁴ IGS seeks the waiver only for supplier changes made through IGS's electronic enrollment process.⁵ The waiver would not apply to supplier changes made through paper agreements.⁶ OCC has authority under R.C. Chapter 4911 to represent the interests of residential natural gas and electric utility customers in Ohio who would be marketed by IGS through door-to-door solicitation.

² See *In the Matter of the Commission's Review of Its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD, Supplemental Finding and Order (March 26, 2014); *In the Matter of the Commission's Review of Its Rules for Competitive Retail Natural Gas Service Contained in Chapters 4901:1-227 through 4901:1-34 of the Ohio Administrative Code*, Case No. 12-925-GA-ORD, Entry on Rehearing (January 17, 2014).

³ See Case No. 12-925-GA-ORD, Finding and Order (December 18, 2013) at 42.

⁴ Application (October 1, 2014).

⁵ See Notice of Clarification (October 10, 2014).

⁶ See *id.*

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 consumer protections from door-to-door sales in the PUCO’s rules are at issue. 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.

First, the nature and extent of OCC’s interest is representing residential customers in this case where IGS is seeking a waiver of rules related to consumer protections involving door-to-door solicitations. Specifically, IGS wants a waiver from the rules requiring third-party verification of door-to-door sales made through electronic means. This interest is different from that of any other party and especially different from that of IGS, whose advocacy includes the financial interest of its stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that consumer protection laws and regulations are essential to ensuring that consumers are adequately protected in transactions involving door-to-door solicitations

by electric and natural gas suppliers.⁷ OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of solicitations by electric and natural gas suppliers in Ohio.⁸

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 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 advocate for residential utility customers, OCC has a very real and substantial interest in this case where a supplier of electric or natural gas service seeks a waiver from necessary consumer protections.

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.

⁷ See Case No. 12-925-GA-ORD, OCC Comments (January 7, 2013) at 14-15; Case No. 12-1924-EL-ORD, OCC Comments (January 7, 2013) at 7-8.

⁸ R.C. 4928.10; R.C. 4929.22.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “[t]he 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.⁹

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 PUCO should grant OCC’s Motion to Intervene.

Respectfully submitted,

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⁹ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 16th day of October 2014.

/s/ Terry L. Etter

Terry L. Etter

Assistant Consumers' Counsel

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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 Etter, Terry L Mr.