

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Orwell)	
Natural Gas Company,)	
)	
Complainant,)	
)	
v.)	Case No.14-1654-GA-CSS
)	
Orwell-Trumbull Pipeline Company,)	
LLC,)	
)	
Respondent.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where the Public Utilities Commission of Ohio ("PUCO") will investigate a Complaint filed by Orwell Natural Gas Corporation ("Orwell" or "the Utility") against one of its affiliate's -- a pipeline supplier -- Orwell-Trumbull Pipeline Company ("Orwell-Trumbull" or "the Pipeline"). The Complaint involves allegations that Orwell-Trumbull threatened to shut-off service to Orwell, due to a dispute over payment for past service. Shut off of transportation service from Orwell-Trumbull to Orwell, would mean that the health, safety and welfare of Orwell's residential customers could be negatively impacted because the necessary and adequate service that Orwell is required to supply them under the law may be affected. OCC is filing on behalf of all the 7,500 residential utility customers of Orwell. 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/ Joseph P. Serio

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MEMORANDUM IN SUPPORT

This case is important to the residential customers of Orwell because the PUCO will investigate, inter alia, the relationship between Orwell and its pipeline affiliate Orwell-Trumbull. Specifically, the PUCO will review allegations that Orwell did not pay Orwell-Trumbull for services rendered and that consequently, the Pipeline threatened to shut-off service to Orwell. The Pipeline alleged that it was owed \$2,670,130 in past demand charges,¹ which if sought from customers amounts to almost \$356.02 for each of Orwell's residential customers.² That customers have necessary and adequate gas service -- including continuous service, at reasonable prices -- is a paramount concern for customers, especially those who rely on natural gas for home heating. And Orwell under the law (R.C. 4905.22) is required to "furnish necessary and adequate service and facilities" and the facilities must be "adequate and in all respect just and reasonable."

¹ Orwell Complaint at Para. 13.

² \$2,670,130 / 7,500 customers = \$356.02 per customer.

OCC has authority under law to represent the interests of all the 7,500 residential utility customers of Orwell pursuant to R.C. Chapter 4911.

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 Orwell’s residential customers may be “adversely affected” by this case, especially if the customers were unrepresented in a case where the PUCO will be investigating a complaint that involves issues related to Orwell’s ability to supply necessary and adequate (i.e. uninterrupted service) service to its customers. 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 the residential customers of Orwell in this case involving issues related to the Utility’s ability to supply necessary and adequate (i.e. uninterrupted service) service to its customers. This interest is different than that of any other party and especially different than that of the Utility or the Pipeline whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the service to residential customers should continue uninterrupted and that customers receive the service they have paid for. Any interruption of service could imperil residential customers' health, safety and welfare. Customers are entitled to necessary and adequate service under the law that is in all respects just and reasonable. The allegations of \$2,670,130 in unpaid demand charges could have a significant negative impact on Orwell's residential customers, if Orwell seeks to collect those demand charges from customers. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO.

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 there are issues related to a utility's ability to supply necessary and adequate (i.e. uninterrupted service) service to its customers. These issues could have a direct impact on health and safety of customers.

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 PUCO 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.³

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.

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

Respectfully submitted,

BRUCE J. WESTON
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/s/ Joseph P. Serio

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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 7th day of November 2014.

/s/ Joseph P. Serio

Joseph P. Serio

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 Serio, Joseph P.