

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Orwell)	
Natural Gas Company,)	
)	
Complainant,)	
)	
v.)	Case No. 15-637-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 whether gas transportation rates that could flow through to utility customers through future GCR rates were excessive. This issue arises through a Complaint filed by Orwell Natural Gas Corporation ("Orwell" or "the Utility") against a related pipeline supplier -- Orwell-Trumbull Pipeline Company ("Orwell-Trumbull" or "the Pipeline"). The Complaint involves allegations that Orwell-Trumbull is charging Orwell rates for transportation service that are excessive. Allegations that transportation rates are too high and thus detrimental to customers, is of vital importance to Orwell's residential customers who are entitled to rates that are just and reasonable. 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, whether gas transportation rates that have flowed through to utility customers through future GCR rates were excessive. Specifically, the PUCO will review allegations that Orwell-Trumbull is charging Orwell transportation rates that are excessive. The Complaint raises the question of whether the rates being charged to Orwell comply with R.C. 4909.22 which requires that, “no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service.” 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 whether

the transportation rates that could flow through to residential customers in GCR rates are just and reasonable. 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 requirement to charge rates that are just and reasonable. If the transportation rates charged by Orwell-Trumbull are not just and reasonable, then the rates charged by Orwell to its GCR customers are not just and reasonable. There is also the question of the validity of the contract between Orwell-Trumbull and Orwell (Exhibit A to the Orwell Complaint). The PUCO modified numerous gas supply and transportation contracts for Orwell and its affiliate Northeast Natural Gas Corporation in their last GCR audit in Case No. 12-209-GCR and 12-212-GA-GCR.¹ At this time it is unclear if this contract was made available for PUCO review in those cases, and if not, why the contract was not made available to

¹ *In the Matter of the Regulation of the Purchased Gas Adjustment Clauses Contained Within the Rate Schedules of Northeast Ohio Natural Gas Corporation and Orwell Natural Gas Company*, Case Nos. 12-209-GA-GCR and 12-212-GA-GCR, Opinion and Order at 36, 64 (November 13, 2013) ("2012 GCR Cases").

the PUCO for review in the 2012 GCR Cases. Had the contract been made available to the PUCO, the PUCO may have acted to modify the terms of the contract at that time. 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 transportation service charged to residential GCR customers should be priced at rates that are just and reasonable. 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.²

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.

² See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/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 29th day of April 2015.

/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.