

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)	
of Duke Energy Ohio, Inc., to)	Case No. 15-883-GE-RDR
Adjust Rider DR-IM and Rider)	
AU for 2014 Grid Modernization)	
Costs.)	

**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 that involves charges that customers will pay for costs allegedly associated with the grid modernization (also known as "SmartGrid") program of Duke Energy Ohio, Inc. ("Duke").¹ OCC is filing on behalf of all Duke's 615,000 residential electricity customers and 420,000 residential gas customers. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/Terry L. Etter

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MEMORANDUM IN SUPPORT

SmartGrid involves the installation of new technologies throughout the distribution system of an electric or a gas utility company in an effort to improve both energy efficiency and reliability of service. The claimed benefits for consumers include saving money through energy usage management and demand-based (time-of-use) rates. Because SmartGrid allows meter reading, electric service disconnection and electric service reconnection by remote control, a considerable benefit for utilities is lower personnel costs to perform these tasks.

Duke has been deploying its SmartGrid for more than five years.² Duke has certified 98.9 percent of its planned advanced meters and has deployed 100 percent of its planned distribution automation.³ Under the Stipulation in Case No. 10-2326-GE-RDR, 2015 is the anticipated year for Duke to be at full SmartGrid deployment.⁴ Hence Duke

² See Application (June 4, 2015), Testimony of Donald L. Schneider, Jr. at 3-4.

³ See *id.*

⁴ *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Stipulation and Recommendation (February 24, 2012) at 7.

should soon be required to file a rate case that includes SmartGrid investment and adjusted operating expenses.⁵

Duke is seeking PUCO approval to collect from customers the actual spending on its SmartGrid program in 2014.⁶ If Duke's Application is approved as filed, Duke's residential electric customers would pay \$6.14 per month for SmartGrid costs.⁷ Duke's residential gas customers would pay \$1.22 per month for SmartGrid costs, except that Duke's gas-only customers in Adams County, Georgetown and Lebanon would receive a credit of \$1.06 per month.⁸ OCC has authority under law to represent the interests of all of Duke's 615,000 residential electricity customers and 420,000 residential gas customers, 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 Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding involving the rates that Duke's residential customers may pay for electric and/or gas service. 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;

⁵ Id.

⁶ See Application at 1-2.

⁷ See id., Direct Testimony of Peggy A. Laub at 9-10.

⁸ See id. at 14-15. According to Ms. Laub, Duke provides only gas service in Adams County, Georgetown and Lebanon, which are outside of Duke's electric service territory. The customers are given a credit reflecting the common costs of the electric and gas SmartGrid programs and the allocable project management organization costs. See id. at 5.

- (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 Duke's residential customers in this case involving a proposed increase in the rates that Duke's residential customers pay for electric and/or gas service. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders. In addition, OCC has participated in the previous PUCO cases regarding Duke's SmartGrid project.

Second, OCC's advocacy for residential customers will include advancing the position that Duke's customers should receive adequate service at a reasonable rate under Ohio law, and that Duke's customers should receive the full monetary and reliability benefits from the SmartGrid they are paying for.⁹ 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 public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay this proceeding. 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

⁹ R.C. 4905.22.

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 in which the PUCO will determine whether Duke is providing adequate service for reasonable rates under Ohio law.

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 “[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.¹⁰

¹⁰ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

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,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/Terry L. Etter

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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 17th day of June 2015.

/s/Terry L. Etter

Terry L. Etter
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Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.