

In the Matter of the Application of the)
Ohio Development Services Agency for)
an Order Approving Adjustments to the) Case No. 15-1046-EL-USF
Universal Service Fund Riders of)
Jurisdictional Ohio Electric Distribution)
Utilities.)

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this case where the Public Utilities Commission of Ohio ("PUCO") will consider how much to charge customers for low-income customer assistance programs. OCC is filing on behalf of all the approximately 4.2 million residential utility customers of Ohio's jurisdictional electric utilities ("EDUs"). The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9565 (Serio)
joseph.serio@occ.ohio.gov
(will accept service via email)

¹ See R.C. Chapter 4911, R.C. 4903.221, R.C. Chapter 4928.53 and Ohio Adm. Code 4901-1-11.

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the)	
Ohio Development Services Agency for)	
an Order Approving Adjustments to the)	Case No. 15-1046-EL-USF
Universal Service Fund Riders of)	
Jurisdictional Ohio Electric Distribution)	
Utilities.)	

MEMORANDUM IN SUPPORT

In this proceeding, the PUCO will consider whether certain adjustments to Universal Service Fund (“USF”) Riders are appropriate. The USF provides assistance to low income residential customers who could not otherwise afford electric service. All customers are required to pay to support the USF through a charge on their bill called the USF Rider. Residential customers are affected when the costs they pay under the USF Rider are being considered. OCC has authority under law to represent the interests of all the approximately 4.2 million residential utility customers of Ohio’s EDU’s, 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 where rates will be set for USF Riders. All residential customers who are not Percentage of Income Payment Plan (“PIPP”) customers are required to pay these rates and to fund programs which low income residential customers may be eligible to receive. 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 Ohio's EDUs in this case involving the costs customers will pay for the USF Riders. This interest is different than that of any other party and especially different than that of EDUs whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the USF Riders they pay should be set at a level that is no more than what is reasonable and lawful under Ohio law, for service that is adequate under Ohio law. 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 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 potential adjustments to the USF Riders and the methodologies behind them will be considered.

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

² 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
OHIO CONSUMERS' COUNSEL

/s/ Joseph P. Serio

Joseph P. Serio (Reg. No. 0036959)
Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9565 (Serio)
joseph.serio@occ.ohio.gov
(will accept service via email)

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 6th day of July 2015.

/s/ Joseph P. Serio

Joseph P. Serio

Assistant Consumers' Counsel

SERVICE LIST

Thomas McNamee
Attorney General Section
Public Utilities Commission of Ohio
180 East Broad Street, 6th Floor
Columbus, Ohio 43216
Thomas.mcnamee@puc.state.oh.us

Dane Stinson
Bricker & Eckler LLP
100 S. Third Street
Columbus, OH 43215-4291
dstinson@bricker.com

Frank P. Darr
Matthew R. Pritchard
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
fdarr@mwncmh.com
mpritchard@mwncmh.com

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, Ohio 45839-1793
cmooney@ohipartners.org

Matthew J. Satterwhite
Steven T. Nourse
AEP Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
mjsatterwhite@aep.com
stnourse@aep.com

Attorney Examiner:

Greta.see@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/6/2015 11:20:20 AM

in

Case No(s). 15-1046-EL-USF

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Serio, Joseph P. Mr.