

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Notice of Material)
Default Served by The East Ohio Gas) Case No. 15-1894-GA-UNC
Company d/b/a Dominion East Ohio)
upon Energy 95, LLC d/b/a Quake)
Energy, LLC.)

**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 involving a notice of Material Default served by The East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion" or the "Utility") upon Quake Energy, LLC ("Quake") to remedy alleged misleading marketing practices by Quake.¹ OCC is filing on behalf of all of Dominion's approximately 1.1 million residential utility customers. The reasons the Public Utilities Commission of Ohio ("Commission" or "PUCO") should grant OCC's Motion are 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/ Ajay Kumar

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(0070921)

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MEMORANDUM IN SUPPORT

On November 9, 2015, Dominion docketed at the PUCO a Notice of Material Default by Quake Energy. Dominion has alleged that Quake Energy has engaged in unfair and misleading marketing practices among other conduct that violates the PUCO’s minimum standards² for Competitive Retail Natural Gas (“CRNG”) service. OCC has authority under R.C. Chapter 4911 to represent the interests of all of Dominion’s approximately 1.1 million residential utility customers.

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 what is alleged in this case, especially if gas service is being marketed to customers in a manner that is unfair or misleading. Misleading, and unfair marketing and soliciting practices harm the residential customers who are intended to be protected by the PUCO’s minimum standards for CRNG conduct. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

² See Ohio Admin. Code §4901:1-29-05.

R.C. 4903.221(B) requires the Commission 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 to represent the residential customers of Dominion who may have been subjected to unfair and misleading marketing practices pertaining to 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 interests of the corporation and its stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that consumers should be protected from unfair, misleading and deceptive marketing practices. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, which is 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 cases 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 CRNG’s quality of service to residential consumers is an issue.

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 Commission 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

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

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 Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Ajay Kumar
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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 email, this 25th day of November 2015.

/s/ Ajay Kumar _____

Ajay Kumar
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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 Kumar, Ajay K. Mr.