



The PUCO should grant this motion to intervene for the reasons in the attached memorandum in support.

Respectfully submitted,

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OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey  
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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 all Ohio residential consumers in this case where the PUCO is considering how the Tax Cut Act affects (reduces) utilities' tax liabilities, and how any reduction in tax liabilities should be passed on to customers in the form of lower rates. OCC's interest is different than that of any other party and especially different than that of the utilities, whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that the rates consumers pay for electric service, which include taxes, should be no more than what is reasonable and lawful under Ohio law. OCC's position is therefore directly related to the merits of this case 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 provide 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 real and substantial interest in this case involving all Ohio utilities' tax liabilities and the opportunities for statewide savings to all customers as a result of the Tax Act.

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), which OCC already has addressed and which 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 has been uniquely 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 should not have denied OCC's interventions and that OCC should have been granted intervention in both proceedings.<sup>5</sup>

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<sup>5</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Finally, in this case, the PUCO has ordered that any interested stakeholder may file comments on or before February 15, 2018.<sup>6</sup> There is no dispute that OCC, as the statutory representative of over 4 million residential utility customers, is an interested stakeholder in this case that should be permitted to share its expertise with the PUCO and other parties.

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,

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<sup>6</sup> Entry ¶¶ 8-9 (Jan. 10, 2018).

**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 8th day of February 2018.

*/s/ Christopher Healey* \_\_\_\_\_  
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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Healey, Christopher Mr.