

In the Matter of the Commission's)
Investigation of the Financial Impact of) Case No. 18-47-AU-COI
the Tax Cuts and Jobs Act of 2017 on)
Regulated Ohio Utility Companies)

The federal Tax Cuts and Jobs Act of 2017 (the "Tax Cut Act") should result in the full flow-through of many millions of dollars of utility tax savings to Ohio consumers. The Public Utilities Commission of Ohio (the "PUCO" or "Commission") has the authority in this case to ensure that favorable result for consumers and should act quickly to do so.¹ The Office of the Ohio Consumers' Counsel ("OCC") looks forward to working with the PUCO and other stakeholders toward ensuring that customers receive the full value of Ohio utilities' reduced tax liabilities.

The PUCO has invited interested stakeholders to provide comments discussing the "components of utility rates that the Commission will need to reconcile with" the Tax Cut Act and "the process and mechanics for how the Commission should do so."² OCC, as the representative of over 4 million residential public utility customers in Ohio, will provide comments by the PUCO's February 15th due date, to protect the interests of Ohio consumers in this investigation.

¹ See Entry ¶ 1 (Jan. 10, 2018) ("The Commission finds that the above-captioned case should be opened to consider the impacts of the Tax Cuts and Jobs Act of 2017 and determine the appropriate course of action to pass benefits resulting from the legislation on to ratepayers.").

² *Id.* ¶ 4.

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

Respectfully submitted,

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The PUCO has a rare opportunity to provide across-the-board savings to utility customers in Ohio as a result of the Tax Cut Act. OCC appreciates the prompt opening of this investigation for consumer protection starting on January 1, 2018.³ It is important for the PUCO to thoroughly analyze the impacts of the Tax Cut Act to guarantee that customers receive the benefit of the corporate tax reductions for utilities.

³ Entry ¶ 7 (Jan. 10, 2018) ("[T]he Commission directs the utilities, pursuant to our authority under R.C. 4905.13, to record on their books as a deferred liability, in an appropriate account, the estimated reduction in federal income tax resulting from the [Tax Act]. Utilities should continue this treatment, until otherwise ordered by the Commission.").

⁴ R.C. Chapter 4911.

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.⁵

⁵ 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, 2018.⁶ 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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⁶ 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.