

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke     )  
Energy Ohio, Inc. to Adjust and Set the     ) Case No. 18-0941-EL-RDR  
Rate for Rider BTR.                             )

---

**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 where Duke Energy Ohio, Inc. ("Duke") proposes to increase its charges to customers for retail transmission service.<sup>1</sup> These transmission costs are billed to Duke under tariffs approved by the Federal Energy Regulatory Commission ("FERC"). Duke charges customers under its base transmission rate rider ("Rider BTR") to pay these FERC-approved costs, which include costs for regional transmission expansion planning and network integration service. OCC is filing on behalf of the 629,000 residential utility customers Duke. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

---

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

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Bryce McKenney  
Bryce McKenney (0088203)  
Counsel of Record  
Zachary Woltz (0096669)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Telephone [McKenney]: (614) 466-9585  
Telephone [Woltz]: (614) 466-9565  
Bryce.mckenney@occ.ohio.gov  
Zachary.woltz@occ.ohio.gov  
(Both will accept service via email)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke     )  
Energy Ohio, Inc. to Adjust and Set the     ) Case No. 18-0941-EL-RDR  
Rate for Rider BTR.                             )

---

**MEMORANDUM IN SUPPORT**

---

In this case, Duke proposes to increase the amount it charges customers for transmission costs related to the provision of retail transmission service. Duke charges customers under Rider BTR for transmission costs that the utility pays to provide retail transmission service, including for regional transmission expansion planning and network integration service. OCC has authority under law to represent the interests of all 629,000 residential utility customers of Duke, 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 Duke proposes to increase the amount it charges consumers. 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 proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential customers of Duke in this case involving increase its charges to customers under Rider BTR for retail transmission 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.

Second, OCC's advocacy for residential customers will include advancing the position that rates should be 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 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 Duke proposes to increase the amount it charges customers under Rider BTR for retail transmission service.

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 (“Court”) 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.<sup>2</sup>

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.

---

<sup>2</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Bryce McKenney  
Bryce McKenney (0088203)  
Counsel of Record  
Zachary Woltz (0096669)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Telephone [McKenney]: (614) 466-9585  
Telephone [Woltz]: (614) 466-9565  
Bryce.mckenney@occ.ohio.gov  
Zachary.woltz@occ.ohio.gov  
(Both 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 17<sup>th</sup> day of August 2018.

*/s/ Bryce McKenney*

Bryce McKenney

Assistant Consumers' Counsel

**SERVICE LIST**

William.wright@ohioattorneygeneral.gov

Jeanne.Kingery@duke-energy.com

Rocco.dascenzo@duke-energy.com

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/17/2018 2:30:01 PM**

**in**

**Case No(s). 18-0941-EL-RDR**

Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of McKenney, Bryce A. Mr.