

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Petition of Communications Workers of)	
America for a Public, On-the-Record)	
Commission Investigation of the)	Case No. 19-1314-TP-CSS
Adequacy and Reliability of Service)	
Provided by AT&T Services, Inc.)	

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene¹ in this complaint case regarding the reliability and safety of telephone service for Ohioans. The Communications Workers of America ("CWA") seeks an investigation by the Public Utilities Commission of Ohio ("PUCO") into the adequacy, safety, and reliability of AT&T Services, Inc. d/b/a AT&T Midwest's ("AT&T Ohio") telephone facilities and services. OCC is filing on behalf of AT&T Ohio's residential utility customers. The reasons the PUCO should grant OCC's Motion are further 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 Weston (0016973)
Ohio Consumers' Counsel

/s/ Angela O'Brien

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MEMORANDUM IN SUPPORT

CWA's Complaint alleges that AT&T Ohio has jeopardized the safety of CWA members and the public at large by failing to maintain its physical plant and facilities in accordance with Ohio law, the PUCO's regulations, and standard industry practices.² CWA further alleges that AT&T Ohio's neglect of its facilities adversely affects telephone service quality and reliability.³ OCC has authority under law to represent the interests of all of AT&T Ohio's residential telephone customers, 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 AT&T Ohio's residential customers may be "adversely affected" by this case, especially if those customers were unrepresented in a proceeding where the PUCO is investigating AT&T Ohio's service quality and potential public safety hazards. 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:

² See, e.g., Complaint at ¶¶ 7-8.

³ See *id.* at ¶ 17.

- (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 AT&T Ohio's residential customers in this case where the CWA has alleged that AT&T Ohio has jeopardized public safety and telephone service quality by failing to properly maintain its plant and facilities. This interest is different from that of CWA, which primarily represents its members as AT&T Ohio employees and itself as a non-residential customer of AT&T Ohio.⁴ And OCC's interest is especially different from that of AT&T Ohio, whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that AT&T Ohio must provide safe, adequate, and reliable telephone service at reasonable rates under Ohio law. OCC's position is therefore directly related to the merits of this case 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.

⁴ See *id.*, ¶ 1.

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 to equitably and lawfully decide 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 that involves allegations that AT&T Ohio does not provide safe, adequate, and reliable telephone 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 "[t]he 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.⁵

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 Weston (0016973)
Ohio Consumers' Counsel

/s/ Angela O'Brien

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

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 5th day of July, 2019.

/s/ Angela O'Brien

Angela O'Brien

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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 O'Brien, Angela D.