

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Vectren Energy Delivery of Ohio, Inc. for)	
Approval to Continue Demand Side)	Case No. 19-2084-GA-UNC
Management Program for its Residential,)	
Commercial, and Industrial Customers.)	

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

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where the Public Utilities Commission of Ohio ("PUCO") will determine what services can be included in the energy efficiency program offered by Vectren Energy Delivery of Ohio, Inc. ("Vectren"). And the PUCO will determine how much Vectren can charge customers for that program (regardless of whether consumers even participate in the program).¹ OCC is filing on behalf of 300,000 residential utility customers of Vectren. 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)
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/s/ Bryce McKenney

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In this case, the PUCO will determine what services Vectren can offer to customers as part of its energy efficiency program and how much Vectren can charge customers to fund that program. In accordance with the settlement approved by the PUCO in Vectren's most-recent rate case, Vectren has removed all energy efficiency funding from its base distribution rates and will charge customers for its energy efficiency programs through an energy efficiency rider.² Accordingly, Vectren filed the Application in this case to charge customers to fund its energy efficiency program in years 2021 through 2023. OCC has authority under law to represent the interests of 300,000 residential utility customers of Vectren under 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. Energy efficiency is a good thing that is available to consumers without utility involvement (and without paying utilities to profit from energy efficiency). Vectren’s utility energy efficiency charge is levied despite the legislature giving the PUCO no statutory mandate for gas efficiency and the legislature recently eliminating the mandate for electric

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efficiency. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the customers are unrepresented in a proceeding where the PUCO will determine what Vectren can charge customers for its energy efficiency programs. 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 Vectren in this case involving the amount that Vectren can charge customers for its energy efficiency programs. 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 shareholders.

Second, OCC’s advocacy for residential customers will include, among other things, advancing the position that customers should only be made to pay rates that are found to be just and reasonable with costs that are found to be prudent.³ OCC’s position

³ See A Cautionary Tale About Energy Efficiency Initiatives, by Ken Costello, https://www.cato.org/sites/cato.org/files/serials/files/regulation/2019/3/regulation-v42n1-4_0.pdf, (“The best available evidence – peer-reviewed studies conducted by disinterested analysts using sophisticated methods – suggests that EE initiatives funded by utility customers should be scrutinized rather than reflexively praised by policymakers. Even if EE programs were ever cost effective, the “shale gas” era has made many of them ineffective now. The best available evidence suggests that EE programs transfer money from some utility customers to others with no gain in efficiency.”).

is therefore directly related to the merits of this case, which 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 the PUCO will determine what services can be included in Vectren's energy efficiency program and how much customers can be charged under Vectren's energy efficiency rider.

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 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.⁴

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/ Bryce McKenney

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⁴ 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 16th day of December 2019.

/s/ Bryce McKenney
Bryce McKenney
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Motion Motion to Intervene by The Office of The Ohio Consumers' Counsel
electronically filed by Mrs. Tracy J Greene on behalf of McKenney, Bryce