

In the Matter of the Application of )  
Vectren Energy Delivery of Ohio, Inc. for ) Case No. 20-640-GA-RDR  
Approval of an Adjustment to its Energy )  
Efficiency Funding Rider Rate. )

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where Vectren Energy Delivery of Ohio, Inc. ("Vectren" or the "Utility") seeks approval of the rate that it will charge customers for Vectren's natural gas energy efficiency programs.<sup>1</sup> Vectren seeks to charge customers \$5.9 million for its 2020 energy efficiency programs, including nearly \$2.3 million for weatherization programs, an activity recently suspended by the PUCO as a result of the coronavirus-related state of emergency.<sup>2</sup>

OCC is filing on behalf of the 300,000 residential utility customers of Vectren. 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.

<sup>2</sup> Application, Exhibit A (\$5,878,565 budget for 2020, including \$1,223,425 and \$1,040,375 for two weatherization programs); Case No. 20-591-AU-UNC, Entry ¶ 10 (Mar. 20, 2020).

Respectfully submitted,

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Ohio Consumers' Counsel

*/s/ Christopher Healey*

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Customers pay for Vectren’s natural gas energy efficiency programs. In a recent PUCO Entry, the PUCO ordered all Ohio utilities to “suspend, for the duration of the emergency, any non-essential functions that would require or cause in-person contact that may create unnecessary COVID-19 spread risks, unless otherwise directed by the Commission.”<sup>3</sup> Such non-essential functions include “in-home energy-efficiency audits, weatherization programs, in-premises inspections not prompted by an identified safety-related concern, and other similar initiatives.”<sup>4</sup>

Vectren filed an application in this case—after the PUCO’s order suspending weatherization and other energy efficiency programs—seeking to charge customers nearly \$5.9 million for its energy efficiency programs, many of which are suspended under the PUCO’s order. In its application, Vectren seeks to charge customers \$2.3 million for its now-suspended weatherization programs. Vectren also seeks to charge customers \$3.6 million for its non-low-income programs, some of which are also suspended. For instance, Vectren’s non-low-income programs include a home insulation program and a multi-family direct install program. Both of these programs require workers to enter customers’ homes and thus must be suspended under the PUCO’s Entry.

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Despite the suspension of at least four of its energy efficiency programs, Vectren has not reduced its proposed budget for 2020. In fact, the 2020 budget shows an increase as compared to the 2019 budget. In 2019, Vectren budgeted \$3,577,994 for non-low-income programs,<sup>5</sup> which has been increased to \$3,614,765 for 2020.<sup>6</sup> The low-income weatherization program budget has similarly increased from \$2,161,729 in 2019<sup>7</sup> to \$2,263,800 in 2020.<sup>8</sup> With a substantial portion of its programs suspended now and for the foreseeable future, there is no justification for Vectren increasing its 2020 energy efficiency budgets.

Quite to the contrary, the remainder of the 2020 budget for the suspended programs should be immediately set to zero. And as OCC explained in its recently filed comments in another case involving Vectren's energy efficiency programs, the best use of these funds is for bill payment assistance.<sup>9</sup>

OCC has authority under law to represent the interests of all the 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. The interests of Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding where Vectren seeks to charge customers millions of dollars for natural gas energy efficiency programs, including programs that

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<sup>4</sup> *Id.*

<sup>5</sup> See Case No. 19-779-GA-RDR, Application, Exhibit A (Mar. 29, 2019).

<sup>6</sup> Application, Attachment A (Mar. 31, 2020).

<sup>7</sup> See Case No. 19-779-GA-RDR, Application, Exhibit A (Mar. 29, 2019).

<sup>8</sup> Application, Attachment A (Mar. 31, 2020).

the PUCO has suspended. 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 charges to consumers for energy efficiency programs, including programs that are suspended as a result of the coronavirus state of emergency. 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, among other things, advancing the position that customers should not subsidize energy efficiency programs, especially those suspended, when the money can be better used to provide bill payment assistance in this time of crisis. OCC's position 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.

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<sup>9</sup> Case No. 19-2084-GA-RDR, Reply Comments by the Office of the Ohio Consumers' Counsel at 5-6 (Apr. 3, 2020).

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 Utility seeks to charge customers nearly \$6 million for its energy efficiency programs.

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.<sup>10</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.

Respectfully submitted,

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Ohio Consumers’ Counsel

*/s/ Christopher Healey*

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<sup>10</sup> 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 13th day of April 2020.

/s/ Christopher Healey  
Christopher Healey  
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 Healey, Christopher