

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Inspire)	
Energy Holdings, LLC for Waivers of)	Case No. 22-29-GE-WVR
Certain Provisions of Chapters 4901:1-21)	
and 4901:1-29, O.A.C., to Permit Third-)	
Party Verification by Digital)	
Confirmation.)	

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

Electric and gas marketer, Inspire Energy Holdings, LLC (“Inspire”), is requesting a waiver of state consumer protection rules. The rules, O.A.C. 4901:1-21-06 and O.A.C. 4901:1-29-06, protect Ohioans from abusive energy marketing by requiring marketers to arrange independent telephonic third-party verifications when consumers enroll in the marketers’ service. Telephonic third-party verifications prevent marketers from unlawfully switching a consumer’s energy supplier without the consumer’s informed consent. This illegal practice is known as “slamming.” The anti-slamming rule also protects energy providers against losing their customers to unscrupulous marketers. Accordingly, the PUCO should not be inspired by Inspire’s request to waive rules intended for consumer protection.

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene¹ on behalf of Ohio residential utility consumers, for consumer protection. The reasons the Public Utilities Commission of Ohio (“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 O.A.C. 4901-1-11.

Respectfully submitted,

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/s/ Angela D. O'Brien

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MEMORANDUM IN SUPPORT

Energy marketer Inspire seeks a waiver from regulations that protect consumers from the unlawful switching of a consumer’s utility service supplier without the consumer’s full and informed consent. OCC has authority under law (R.C. Chapter 4911) to represent the interests of Ohio residential utility consumers in preventing the slamming of their energy services.

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 consumers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding where an energy marketer (here Inspire) is seeking a waiver from important consumer protection regulations adopted to prevent unlawful slamming. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied. The rules from which Inspire is seeking a waiver are also currently being

considered in a PUCO rulemaking in which OCC and others have filed comments for consumer protection.²

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 residential utility consumers in this case involving Inspire's request for a waiver from important O.A.C. consumer protection rules. The rules require telephonic third-party verification of service enrollments, to prevent slamming. This interest is different than that of any other party and especially different than that of Inspire whose advocacy includes the financial interest of its members.

Second, OCC's advocacy for residential consumers will include, among other things, advancing the position that consumers should be protected from misleading and deceptive marketing practices (such as slamming) by an electric and natural gas marketer like Inspire. OCC's position is therefore directly related to the merits of this case, which is pending before the PUCO. The PUCO is the state regulator charged with the

² See *In the Matter of the Commission's Review of Ohio Adm. Code Chapters 4901:1-21, 4901:1-23, 4901:1-24, 4901:1-27, 4901:1-28, 4901:1-29, 4901:1-30, 4901:1-31, 4901:1-32, 4901:1-33, and 4901:1-34 regarding Rules Governing Competitive Retail Electric Service and Competitive Retail Natural Gas Service*, Case Nos. 17-1843-EL-ORD *et al.*

responsibility to protect utility consumers including from misleading and deceptive practices in the marketing of energy 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 O.A.C. (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 O.A.C. 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case where Inspire is seeking a waiver from consumer protection rules under the O.A.C.

In addition, OCC meets the criteria of O.A.C. 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.

O.A.C. 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

consumers. 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.³

OCC meets the criteria set forth in R.C. 4903.221, O.A.C. 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential consumers, the PUCO should grant OCC’s Motion to Intervene.

Respectfully submitted,

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Ohio Consumers’ Counsel

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³ 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 31st day of January 2022.

/s/ Angela D. O'Brien
Angela D. O'Brien
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 Office of the Ohio Consumers' Counsel
electronically filed by Mrs. Tracy J. Greene on behalf of O'Brien, Angela D