

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for a Waiver of)	Case No. 22-0043-GE-WVR
Specific Sections of the Ohio)	
Administrative Code.)	

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

For consumer protection, the Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where Duke Energy Ohio ("Duke") seeks waivers to postpone compliance with certain PUCO rules. Duke's change from its current customer information system ("CIS") to its "Customer Connect" CIS could harm residential consumers.¹ The PUCO should protect consumers from inappropriate delays in consumer protection rules.

Duke's requested waivers impact important consumer protections that residential consumers depend upon to maintain their natural gas and electric services. These waivers shorten or suspend the ability for consumers to enroll in budget billing to help them better manage their monthly budget and enroll in new extended payment plans to prevent delinquency/service disconnection. Fortunately, Duke's requested waivers suspend disconnections for non-payment until later this summer. But Duke's proposal lacks specificity around payment plans, financial assistance, and/or other options that will likely be needed to help consumers when disconnections resume.

¹ Application for Waiver of Duke Energy Ohio, Inc. (Jan. 18, 2022).

Duke's requested waivers modify how PIPP payments are treated. But under Duke's proposal, consumers could have problems remaining on the PIPP program and/or obtaining all available arrearage credits that should be available to them.

The waivers also change payment posting timelines in ways that could result in consumers being unfairly assessed late payment fees and charges. The waivers also cause consumers delays in establishing new services.

Waivers are also sought for several consumer protections that govern the enrollment and contact administration standards for consumers who participate in the electric and/or natural gas choice programs. These waivers can result in customer confusion regarding the services received from a Marketer. OCC requests intervention to mitigate the impact these waivers may have on consumers.

OCC is filing on behalf of Duke's approximately 640,000 residential electric and 410,000 residential gas consumers.² The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

² See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

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Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien
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**BEFORE
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Energy Ohio, Inc., for a Waiver of)	Case No. 21-0043-GE-WVR
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MEMORANDUM IN SUPPORT

Duke’s requested waivers during its transition to “Customer Connect” CIS impact natural gas and electric consumer protections. These waivers shorten or suspend dates involved for enrolling in budget billing, new extended payment plans, optional billing functions, routine meter changes, service establishment standards, credit and collection/disconnections standards, PIPP administration, and payment posting timelines. Waivers are also sought for marketer functions including electronic enrollments, contract initiation and terminations, and existing anti-slamming protections. OCC requests intervention to mitigate the impact of these changes on consumers.

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 Duke seeks waiver of important consumer protections rules. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Public Utilities Commission of Ohio (“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; and
- (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 Ohio's residential utility consumers where Duke seeks PUCO permission to waive certain rules that govern the billing and payment plans which protect electric and natural gas consumers. This interest is different from that of any other party and especially different from that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential consumers will include advancing the position that consumer protections should be considered with regard to proposals for waivers of PUCO rules affecting the billing and payment of utility bills. OCC's position is therefore directly related to the merits of this case that is before the PUCO.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings and consumer protection advocacy 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. This includes advocating that important consumer protections should not be waived unless waiver results in better protection for consumers.

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 statutory advocate for residential utility consumers, OCC has a very real and substantial interest in this case where the utility seeks permission to waive some of the consumer protection requirements under the PUCO rules.

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 OCC has been uniquely designated as the state representative of the interests of Ohio’s residential utility consumers. OCC’s 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

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

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 consumers, the PUCO should grant OCC's Motion to Intervene.

Respectfully Submitted,

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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 17th day of February 2022.

/s/ Amy Botschner O'Brien

Amy Botschner 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 Ms. Alana M. Noward on behalf of Botschner O'Brien, Amy