

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the	)	
Ohio Department of Development for an	)	
Order Approving Adjustments to the	)	Case No. 22-556-EL-USF
Universal Service Fund Rider of	)	
Jurisdictional Ohio Electric Distribution	)	
Utilities.	)	

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

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The Office of the Ohio Consumers Counsel (“OCC”) moves to intervene<sup>1</sup> where the Public Utilities Commission of Ohio (“PUCO”) will consider the rates that will be charged to consumers for low-income consumer assistance programs.<sup>2</sup> All customers, including residential consumers, pay to support the low-income consumer programs through the Universal Service rider. OCC is filing on behalf of the millions of residential consumers of Ohio’s electric distribution utilities. The reasons the PUCO should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

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<sup>1</sup> See, R.C. Chapter 4911, R.C. 4903.221 and O.A.C. 4901-1-11.

<sup>2</sup> R.C. 4928.52.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien  
Amy Botschner O'Brien (0074423)  
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**MEMORANDUM IN SUPPORT**

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Through this proceeding, the PUCO determines the methodology used to calculate Universal Service Fund (“USF”) rider rates. The USF program provides assistance to low-income residential consumers who could not otherwise afford electric service. All other customers are required to pay for the USF program through a charge on their bill called the USF Rider. OCC has authority under law to represent the interests of Ohio’s residential electric utility consumers, 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 Ohio’s residential consumers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding where rates will be established for each of the electric utility Universal Service Riders. Since all residential consumers are required to pay the USF Rider rates, 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; and
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

OCC meets these criteria. First, the nature and extent of OCC's interest is representing residential electric consumers in a proceeding determining, among other things, charges for the universal service fund. This interest is different from that of any other party and especially different from that of the electric utilities whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential consumers will include advancing the positions that PIPP charges for at-risk Ohioans and the USF Rider charges that Ohioans pay to support PIPP assistance and other programs should be set at a level that is no more than what is reasonable and lawful under Ohio law, for service that is adequate 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.

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 consumers, OCC has a very real and substantial interest in this case where adjustments to the USF Riders and the methodologies behind them will be considered.

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 it because OCC is uniquely designated as the state representative of the interests of Ohio’s residential utility consumers.<sup>3</sup> 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>4</sup>

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<sup>3</sup> R.C. Chapter 4911.

<sup>4</sup> 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,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien  
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(willing to accept service by e-mail)

### **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 14<sup>th</sup> day of June 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