

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke	)	
Energy Ohio, Inc., for Approval of a	)	Case No. 21-903-GA-EXM
General Exemption of Certain Natural Gas	)	
Commodity Sales Services or Ancillary	)	
Services.	)	

In the Matter of the Application of Duke	)	Case No. 21-904-GA-ATA
Energy Ohio, Inc. for Tariff Approval.	)	

In the Matter of the Application of Duke	)	Case No. 21-905-GA-AAM
Energy Ohio, Inc., for Approval to	)	
Change Accounting Methods.	)	

---

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

---

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene<sup>1</sup> in this case where Duke Energy Ohio, Inc. ("Duke") seeks to replace its current gas cost recovery process with a wholesale auction procedure for procuring natural gas supply for consumers.<sup>2</sup> The wholesale auction procedure is being implemented by Duke in accordance with the terms of a settlement approved by the Public Utilities Commission of Ohio ("PUCO") in Case Nos. 14-357-GA-RDR *et al.*, and after development by Duke, OCC, the PUCO Staff, and other stakeholders. The wholesale auction procedure will benefit consumers because resulting standard service offer ("SSO") prices will better reflect the gas market.<sup>3</sup>

---

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

<sup>2</sup> See Application at 4.

<sup>3</sup> See Application at 4-5.

OCC is filing on behalf of the approximately 440,000 residential natural gas consumers that Duke serves in Ohio, all of whom are expected to be affected by Duke's Application.<sup>4</sup> The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Angela D. O'Brien  
Angela D. O'Brien (0097579)  
Counsel of Record  
William J. Michael (0070921)  
Connor D. Semple (0101102)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

65 East State Street, Suite 700  
Columbus, Ohio 43215-4213  
Telephone: [O'Brien]: (614) 466-9531  
Telephone: [Michael]: (614) 466-1291  
Telephone: [Semple]: (614) 466-9565  
[angela.obrien@occ.ohio.gov](mailto:angela.obrien@occ.ohio.gov)  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[connor.semples@occ.ohio.gov](mailto:connor.semples@occ.ohio.gov)  
(willing to accept service by e-mail)

---

<sup>4</sup> *Id.* at 1.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke	)	
Energy Ohio, Inc., for Approval of a	)	Case No. 21-903-GA-EXM
General Exemption of Certain Natural Gas	)	
Commodity Sales Services or Ancillary	)	
Services.	)	

In the Matter of the Application of Duke	)	Case No. 21-904-GA-ATA
Energy Ohio, Inc. for Tariff Approval.	)	

In the Matter of the Application of Duke	)	Case No. 21-905-GA-AAM
Energy Ohio, Inc., for Approval to	)	
Change Accounting Methods.	)	

---

**MEMORANDUM IN SUPPORT**

---

Duke seeks to obtain natural gas supply through a Standard Service Offer (“SSO”) wholesale auction to serve consumers. The wholesale auction procedure will benefit consumers because SSO prices will be more reflective of the gas market than Duke’s current Gas Cost Recovery process. This auction procedure will replace Duke’s current Gas Cost Recovery process. Additionally, Duke proposes to pass the price of gas purchased at auction on to consumers at a monthly Standard Service Offer Rate (“SSO Rider”). The SSO Rider will replace the company’s current Gas Cost Recovery Rider. Duke’s proposed wholesale auction procedure will encourage natural gas suppliers to compete for the company’s market, which can result in lower retail prices for consumers. OCC has authority under law to represent the interests of the 440,000 residential natural gas consumers of Duke, 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 they are unrepresented in a proceeding where Duke seeks to replace its method of procuring the natural gas supplied to standard offer consumers. 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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential consumers of Duke in this case involving changes to the company's method of procuring natural gas supply for standard offer consumers and recovering auction-related costs. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes its financial interests.

Second, OCC's advocacy for residential customers will include advancing the position that a competitive market for natural gas supply provides consumers with lower prices. OCC's position is therefore directly related to the merits of this case that 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 the 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 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 Duke seeks to replace its method of purchasing and charging consumers for natural gas.

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) that OCC already has addressed and that 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 customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio 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>5</sup>

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

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Angela D. O'Brien  
Angela D. O'Brien (0097579)  
Counsel of Record  
William J. Michael (0070921)  
Connor D. Semple (0101102)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
65 East State Street, Suite 700  
Columbus, Ohio 43215-4213  
Telephone: [O'Brien]: (614) 466-9531  
Telephone: [Michael]: (614) 466-1291  
Telephone: [Semple]: (614) 466-9565  
[angela.obrien@occ.ohio.gov](mailto:angela.obrien@occ.ohio.gov)  
[william.michael@occ.ohio.gov](mailto:william.michael@occ.ohio.gov)  
[connor.semples@occ.ohio.gov](mailto:connor.semples@occ.ohio.gov)  
(willing to accept service by e-mail)

---

<sup>5</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 29<sup>th</sup> day of June 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:

### **SERVICE LIST**

[Robert.eubanks@ohioAGO.gov](mailto:Robert.eubanks@ohioAGO.gov)  
[Thomas.shepherd@ohioAGO.gov](mailto:Thomas.shepherd@ohioAGO.gov)  
[mjsettineri@vorys.com](mailto:mjsettineri@vorys.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)  
[Michael.nugent@igs.com](mailto:Michael.nugent@igs.com)  
[Evan.betterton@igs.com](mailto:Evan.betterton@igs.com)  
[Stacie.cathcart@igs.com](mailto:Stacie.cathcart@igs.com)

Attorney Examiner:  
[Matthew.sandor@puco.ohio.gov](mailto:Matthew.sandor@puco.ohio.gov)

[Rocco.dascenzo@duke-energy.com](mailto:Rocco.dascenzo@duke-energy.com)  
[Jeanne.kingery@duke-energy.com](mailto:Jeanne.kingery@duke-energy.com)  
[Larisa.vaysman@duke-energy.com](mailto:Larisa.vaysman@duke-energy.com)  
[Elyse.akhbari@duke-energy.com](mailto:Elyse.akhbari@duke-energy.com)  
[tallexander@beneschlaw.com](mailto:tallexander@beneschlaw.com)  
[mkeaney@beneschlaw.com](mailto:mkeaney@beneschlaw.com)  
[ssiewe@beneschlaw.com](mailto:ssiewe@beneschlaw.com)  
[dparram@bricker.com](mailto:dparram@bricker.com)

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**6/29/2022 2:09:02 PM**

**in**

**Case No(s). 21-0903-GA-EXM, 21-0904-GA-ATA, 21-0905-GA-AAM**

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