

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Santanna Natural Gas Corporation d/b/a)
Santanna Energy Services for Waivers of)
Certain Provisions of Ohio Adm. Code) Case No. 23-171-GE-WVR
Chapters 4901:1-21 and 4901:1-29, to)
Permit Electronic Enrollment and Third-)
Party Verification by Digital)
Confirmation.)

**MOTION TO INTERVENE
BY
LEGAL AID SOCIETY OF COLUMBUS,
LEGAL AID SOCIETY OF SOUTHWEST OHIO,
OHIO POVERTY LAW CENTER AND
SOUTHEASTERN OHIO LEGAL SERVICES**

Each of the above-named Consumer Parties respectively moves to intervene in their own right. The motions are jointly made solely for administrative efficiency.

Electric and gas marketer, Santanna Natural Gas Corporation d/b/a Santanna Energy Services (“Santanna”), requests a waiver of state consumer protection rules set forth in O.A.C. 4901:1-21-06 and O.A.C. 4901:1-29-06 to the extent the rules “require wet signatures, audio recordings, or verbal [third-party verifications].”¹ The requirements for wet signatures, audio recordings, or verbal third-party verifications protect Ohioans from having their energy marketer switched without proper consent and other misleading and deceptive practices, especially in door-to-door sales.

The Legal Aid Society of Columbus, Legal Aid Society of Southwest Ohio, Ohio Poverty Law Center, and Southeastern Ohio Legal Services (the “Consumer Parties”)

¹ Santanna Amended Application, at ¶ 12.

move to respectively and individually intervene.² Consumer Parties are filing on behalf of their respective interests in representing residential utility consumers (many of whom are at-risk) in this state. The reasons the PUCO should grant the Consumer Parties' Motions are further set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Peggy P. Lee

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² See R.C. 4903.221 and O.A.C. 4901-1-11. While this motion is joint, each of the Consumer Parties is seeking intervention respectively and individually and may take positions that are independent of any other Consumer Party.

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MEMORANDUM IN SUPPORT

Energy marketer Santanna 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 (*i.e.*, slamming). Santanna seeks a waiver from provisions in O.A.C. 4901:1-21-06 and O.A.C. 4901:1-29-06 to the extent the rules require wet signatures, audio recordings, or verbal third-party verifications of consumer enrollments. Santanna’s requested waiver of the consumer protection rules so that it can complete consumer enrollments using digital/electronic verifications could increase the potential for harm to consumers and unauthorized marketer enrollments.

The Attorney Examiner’s April 13, 2023 Entry in this case “invit[ed] interested stakeholders to file comments” in this case and directed that motions to intervene be filed by May 15, 2023.³ Consumer Parties are “interested stakeholders” because they represent residential utility consumers, many of whom are at-risk.

³ Case No. 23-171-GE-WVR (April 13, 2023) at ¶ 6.

The Legal Aid Society of Columbus is a non-profit provider of free civil legal services to low-income persons in a broad range of substantive legal issues, including utility-related issues, across six counties in Central Ohio. The Legal Aid Society of Southwest Ohio is a non-profit organization that serves low-income families and individuals in southwest Ohio to resolve serious legal problems, to promote economic and family stability, and to reduce poverty through effective legal assistance. The Ohio Poverty Law Center works to reduce poverty by protecting and expanding the legal rights of Ohioans living, working, and raising their families in poverty. Southeastern Ohio Legal Services is a non-profit provider of free civil legal services to low-income persons and seniors in a broad range of substantive legal issues including utility-related issues in 33 counties throughout Appalachian Southeastern Ohio.

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 the Consumer Parties’ constituents may be “adversely affected,” especially if they are unrepresented in a proceeding concerning marketer Santanna’s request for a waiver of consumer protection rules. 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; 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 the Consumer Parties' respective interests are representing their constituents' (many of whom are at-risk) in this case involving Santanna's request for a waiver of consumer protection rules. The Consumer Parties are "interested stakeholders" within the meaning of the Attorney Examiner's April 13, 2023 Entry. The Consumer Parties' respective interests are different from that of any other party and especially different from that of the utilities, whose advocacy includes the financial interest of stockholders.

Second, the Consumer Parties' advocacy for their respective constituents will include, among other things, advancing the position that consumers should not be subjected to misleading and deceptive marketing practices. The Consumer Parties' respective positions are therefore directly related to this case, which is pending before the PUCO, the authority with regulatory control of Santanna's marketing of energy service in Ohio.

Third, the Consumer Parties' respective interventions will not unduly prolong or delay the proceedings. The Consumer Parties' longstanding expertise and experience regarding residential consumer utility matters will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, the Consumer Parties' respective interventions will significantly contribute to full development and equitable resolution of the factual issues. They will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

The Consumer Parties also satisfy the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that they satisfy 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 advocates for residential utility consumers and at-risk populations, the Consumer Parties each have a very real and substantial interest in this case involving Santanna’s request for a waiver of consumer protection rules.

In addition, the Consumer Parties meet 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 the Consumer Parties have already addressed, and which they satisfy.

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 the Consumer Parties do not concede the lawfulness of this criterion, they satisfy this criterion in that they are each uniquely positioned as representing residential utility consumers and at-risk populations. Such respective interests are different from, and not represented by, any other parties.

Moreover, the Supreme Court of Ohio (“Court”) has confirmed the rights of parties 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.⁴

⁴ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶ 13-20.

The Consumer Parties meet 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 their respective consumer constituents, many of whom are at-risk, the PUCO should grant the Consumer Parties' Motions to Intervene.

Respectfully submitted,

/s/ Peggy P. Lee

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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 15th day of May 2023.

/s/ Stephanie Moes
Stephanie Moes
Counsel for Legal Aid Society of
Southwest Ohio

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Case No(s). 23-0171-GE-WVR

Summary: Motion Motion to Intervene by Legal Aid Society of Columbus, Legal Aid Society of Southwest Ohio, Ohio Poverty Law Center and Southeastern Ohio Legal Services electronically filed by Mrs. Tracy J. Greene on behalf of Stephanie Moes.